



ORDINANCE NO. 299

AN ORDINANCE OF THE CITY OF UHLAND, TEXAS AMENDING THE CITY'S SUBDIVISION ORDINANCE KNOWN AS ORDINANCE 245 AS AMENDED, RELATED TO REVISING THE SUBDIVISION GENERAL PROVISIONS, PLAT APPLICATION PROCEDURES, INFRASTRUCTURE REVIEW AND PERMITTING PROCEDURES, ADDING TRAFFIC IMPACT ANALYSIS REQUIREMENTS AND PARKLAND DEDICATION AND IMPROVEMENT REQUIREMENTS, REVISING THE PENALTY AND VIOLATION SECTIONS, AND OTHER MATTERS IN CONNECTION THEREWITH; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Umland ("City") is a Texas General Law Municipality operating under the laws of the State of Texas; and

WHEREAS, the City is empowered by Chapter 212 of the Texas Local Government Code to establish subdivision regulations within the incorporated limits of the City and within the City's Extraterritorial Jurisdiction (ETJ); and

WHEREAS, the City has given appropriate and reasonable consideration to the amendments to the subdivision regulations contained herein and found them to be the most appropriate for the City; and

WHEREAS, the City Council of the City of Umland, Texas, finds that the amendments to the subdivision regulations as depicted in this Ordinance are compliant with the requisites of state law, including Texas Local Government Code; and

WHEREAS, the City Council finds that the amendments to the subdivision regulations depicted in this Ordinance are necessary for the orderly development of this community and represents the best interest of all citizens of the City of Umland, Texas and promotes the aesthetics, health, safety, general welfare and convenience of the people.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UHLAND, TEXAS, AS FOLLOWS:

SECTION 1. The foregoing recitals are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

SECTION 2. Ordinance 245 as amended of the City of Uhlend, is hereby amended as shown on Exhibit A attached hereto.

SECTION 3. If any provisions of this Ordinance is illegal, invalid, unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid or unenforceable provisions, a provision as similar in terms to the illegal, invalid or unenforceable provision as is possible and is legal, valid and enforceable will be added to this Ordinance.

SECTION 4. This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

SECTION 5. This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.


SECTION 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

SECTION 7. That all rights and privileges of the City and individual landowners are expressly saved as to any and all pending permits or violations of the provision of any ordinances repealed by this ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violation and all pending litigation, both civil and criminal, whether pending in court or note, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 8. This Ordinance shall be in full force and effect after its final passage and approval by the City Council, as duly attested by the Mayor and City Secretary, and any publication required by law.


PASSED, APPROVED, and ADOPTED on the 12th day of July, 2023.

Ayes- 5 Nay- 0 Abstain- 0



Lacey Duke, Mayor

ATTEST:



Kimberly Weatherford, City Secretary



Subdivision Ordinance Amendment Exhibit A

All text which is underlined denotes addition of new text. All text which is ~~striketrough~~ denotes removal of existing text. All other text is existing, unchanged text. Any existing text which has been omitted **shall** be considered unchanged. All text which is both between braces { } and *italicized*, is for instruction and reference only and is not intended to be adopted or codified. City of Uhland Ordinance 245 as amended is hereby amended as follows:

{Repeal ARTICLE I. GENERAL PROVISIONS and ARTICLE II. APPLICATION PROCEDURES and replace with the following}

Article I. General Provisions

SECTION 1. SHORT TITLE

- A. This ordinance and the standards, rules and regulations contained herein **shall** be known and **may** be cited as "The Subdivision Ordinance of the City of Uhland, Texas"

SECTION 2. PURPOSE AND APPLICABILITY

- A. It is the purpose of this ordinance to promote sound planning in the subdivision of land, and to provide consistent rules, which protect the public health, safety, and welfare while allowing the legal platting of land. The regulations herein have been made after careful study of existing local conditions and the desirable future development of the City. It is not the desire or the intent of the City to regiment the design of subdivisions of property and its environs, but rather to recommend the utilization, to the fullest extent possible, of good, sound, modern subdivision planning principles.
- B. It is intended that as much freedom as possible be allowed for individual owners and subdividers in the design and ultimate development of new subdivisions so that they **will** contribute innovation, individuality, and character to the community's new residential neighborhoods and non-residential developments. At the same time, these rules are intended to assure that such development provides for:
1. The promotion of the health, safety, morals, or general welfare of the City and the safe, orderly, and healthful development of the City and the extraterritorial jurisdiction (ETJ)
 2. adequate traffic thoroughfares and public facilities;
 3. minimum standards for public facilities
 4. a consistent and equitable pattern of development among neighboring parcels of land; and
 5. consistency with the City's adopted plans.
- C. The regulations contained within this ordinance are adopted under the authority of the constitution and laws of the State of Texas, including particularly Chapter 42, Chapter 212, and Chapter 242 of the Texas Local Government Code. Pursuant to the authority herein granted, the City Council extends to all of the area within its City limits and ETJ, the application of all of the terms and provisions in this ordinance establishing rules and regulations governing plats and subdivisions of land.

SECTION 3. APPLICATION OF REGULATIONS

- A. On or after the passage of this ordinance, any person, firm or corporation seeking approval of any subdivision master plan, plat, or replat of any subdivision or development of land within the corporate limits of the City and its legally established extraterritorial jurisdiction shall be required to comply with the requirements of this ordinance before such approval may be granted. Any subdivision plats or development plans that have not been approved by the City before passage of this ordinance shall be required to comply with the requirements of this ordinance.
- B. Compliance with All Applicable City Ordinances and Resolutions. Prior to the final approval of any Plat or Subdivision Master Plan such shall be required to comply with all applicable City Ordinances and Resolutions unless such Plat or Subdivision Master Plan has been granted a waiver, in accordance with this Ordinance, for each specific non-compliance.

SECTION 4. DEFINITIONS

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural number; and words in the plural number include the singular number. The words "shall" and "will" are always mandatory, while the word "may" is merely discretionary. The words "may not" are prohibitive. For the convenience of the reader, these terms are usually indicated by bold print and underlining, but the absence of such indications does not imply a different meaning.

Any term not expressly defined in this section shall be defined by a common planning definition from the American Planning Association's - A Planners Dictionary. The City Administrator shall determine the appropriateness of a definition.

- Access Street: any street within a subdivision or development along the boundaries of the subdivision or development which would serve any properties outside the plat or development plan.
- Access Way: a public or private thoroughfare by which pedestrians shall have lawful and usable ingress and egress to a property line.
- Alley: A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.
- Alley, Commercial: An Alley designed to access the rear or side of non-residential lots or the rear of residential lots with rear entry garages.
- Alley, Residential: An alley designed to access the rear or side of residential lots without rear entry garages.
- Applicant: a person or entity who submits to the City an application for an approval required by this Ordinance. To be qualified as an Applicant under this Ordinance, the person or entity must have sufficiently documented legal authority or proprietary interests in the land to commence and maintain proceedings under this Ordinance. The term may include the Property Owner, developer or subdivider or an agent thereof who files a Plan or Plat application.

- Arterial Street: a principal traffic artery carrying higher volumes of traffic than an access street and connects areas throughout a subdivision and to State Highways.
- Building Setback Line: The line within a property defining the minimum horizontal distance between a building and lot lines.
- Capital Improvements Program (CIP): the official proposed schedule, if any, of the City's future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by the City Council.
- City: The City of Uhland, Texas.
- City Administrator: The City Administrator of the City of Uhland or his/her designee.
- City Consultants: Any person or firm authorized by the City Council to provide consulting services to, on behalf of and for the benefit of the City.
- City Engineer: a registered, professional engineer employed or designated by the City Administrator to provide professional engineering services for and on behalf of the City.
- City Staff: Any full or part time employee of the City.
- City Council: The City Council of the City of Uhland, Texas also referred to, from time to time, as the Board of Alderman of the City of Uhland, Texas.
- Clearing and Grubbing: the removal and disposal of trees, stumps, brush, roots, vegetation, logs, rubbish and other matter from a designated right-of-way.
- Comprehensive Plan: the official plan, if any, as adopted, revised or amended by the City Council which indicates the general goals and aspirations for development of the City and providing locations within the corporate limits of the City and the City's ETJ for various land uses, transportation uses, public and private buildings, streets, parks, utilities, and other public and private developments and improvements.
- County: means the applicable County or Counties in which the subdivision or development is located.
- Developer: Any person or any agent thereof, developing or proposing to develop land so as to constitute a development as that term is defined herein. In any event, the term "developer" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be developed.
- Development: An altering of landscape in any number of ways typically for the purpose of construction or reconstruction of buildings, structures, or other land improvements.
- Easement, Non-Vehicular Access: An easement dedicated to the public prohibiting vehicular traffic on, over or across said easement.
- Easement, Overhang: An interest in land granted to the City, to the public generally, or to a private or public corporation for installing or maintaining utilities over private land. This easement does not grant the right of entry thereon with machinery and vehicles for maintenance.
- Easement, Sidewalk: An interest in land granted to the public for the installation of and public use of, sidewalk across or over private land, together with the right to enter thereon with machinery and vehicles necessary for the installation and maintenance of said sidewalk.

- Easement, Utility: An interest in land granted to the City, to the public, or to a public or private 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 utility.
- Easement, Public Use: An interest in land granted to the City, to the public, or to a public or private corporation for general use by the public in any manner deemed appropriate by the receiving entity.
- Extraterritorial Jurisdiction "ETJ": The area beyond the corporate city limits in which a municipality **may** exercise such powers and duties as outlined by Texas Law, to include but not limited to the Texas Local Government Code; and as determined by Chapter 42 of the Texas Local Government Code.
- Extreme limits: The side slope intercept with the natural ground or proposed finished ground elevation of a channel.
- Final Plat: Includes the survey description for each lot in the plat plus plat notes and dedication, recording and approval statements to be recorded with the county.
- Flood Plain: Any land area susceptible to being inundated by water from the unusual and rapid accumulation or runoff of surface waters from any source as determined by the most recent versions of the floodplain maps created and distributed by the Federal Emergency Management Agency (FEMA), or best information available as identified by the floodplain administrator.
- Floodway: The channel of a river or watercourse and portions of the adjacent floodplain as depicted in the current floodway map provided to the City of Umland by Federal Emergency Management Agency (FEMA) or as determined by an engineering study in area not depicted in the current floodway map.
- Half-Street: Any portion of a street which does not meet the minimum right-of-way widths required by this ordinance or which is to be widened to full width at some later date.
- Impervious Surface: The impermeable surface of any street, alley, sidewalk, driveway or parking area, the roof of any building or structure, and the top surface of any deck or other construction of any character which is so designed or built such that rain falling on the surface is carried off that surface without directly penetrating the ground beneath it.
- Interior Street: A minor street which enters or traverses a subdivision, or whose entire course is located within the boundaries of a subdivision, as distinguished from a perimeter street.
- Limited Access Street: A street along, which direct vehicular ingress and egress to and from adjacent residential property is prohibited.
- Local Street: a street or road which is intended primarily to serve traffic within a neighborhood or residential area and provides access to adjacent land over short distances.
- Lot: An undivided parcel of land having frontage on a public street or an approved open space having direct street access, and which is, or in the future **may** be, offered for sale, conveyance, transfer, or improvement which is designated as a distinct and separate parcel, and which is identified by a lot number, or other symbol in a duly approved subdivision plat which has been properly filed of record.
- Lot, Corner: A lot at the point of intersection of and abutting on two or more intersecting streets, the angle of intersection being not more than 135 degrees.

- Lot, Double Front: Any lot, not a corner lot, with frontage on two streets which are parallel to each other or within 45 degrees of being parallel to each other.
- Major Thoroughfare: A limited access arterial street designed to carry a large volume of traffic from one part of the city to another, along a route generally indicated in the city's transportation plan.
- Marginal Access Street: A street which is parallel and adjacent to a limited access street or collector street and which primarily provides vehicular access to abutting properties and protection from high speed through traffic.
- Minor Street: Any street other than a major thoroughfare, a collector street or a marginal access street, which serves and is accessed by individual properties and lots fronting thereon.
- Monumenting: The process of establishing permanent markers to locate a boundary of a subdivision and/or establishing right-of-way limits or centerlines.
- Parkway: A landscaped thoroughfare along a roadway; often in a median, between a street and a sidewalk, and/or between a sidewalk and an adjacent property.
- Perimeter Street: A street or dedicated street right-of-way adjacent to and abutting the boundary of any subdivision or tract of land.
- Planning and Zoning Commission: created by the City Council (the "P&Z Commission"); is responsible for planning, zoning and recommending to the City Council future developments and related projects for the City.
- Planning Director: The person, and the person's designated representative, directed by the City Administrator to administer the plans and city ordinances related to land development and architectural standards. The director **shall** consult with experts as necessary to carry out the provisions of this ordinance.
- Plat: The map or plan of a subdivision of a tract of land into one or more smaller tracts of land.
- Preliminary Plat: Provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage and other information required to evaluate the proposed development.
- Primary Collector Street: A limited access street which collects and distributes traffic from and to two or more secondary collector streets and which feeds into the major thoroughfares.
- Private Street: A street which is not a public thoroughfare.
- Public Improvement: Any road, street, utility or other facility or structure which is intended for public use, including but not limited to roads, sidewalks, drainage and utility facilities which are constructed privately for the benefit of the subdivision or development and later dedicated to the City, owned by a property owners association or owned by a utility entity.
- Reserve Strip: An area of land adjacent to a public right-of-way, title to which is retained by the land owner (subdivider), the purpose of such strip being to control access across said land.
- Replatting: The re-subdivision of any part or all of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines, public improvements or public dedications.
- Residential Street: A minor street which is located entirely within a single-family residential area.

- Sanitary Sewer: A system of underground pipes that carries sewage from bathrooms, sinks, kitchens, and other plumbing components to either a wastewater treatment system; to include a septic system where a wastewater treatment system is not available or required.
- Secondary Collector Street: A limited access street which collects traffic from two or more minor street and feeds into another secondary collector, a primary collector, or a major thoroughfare.
- Street: A public or private right-of-way, however designated, other than an alley, which carries vehicular traffic or provides vehicular access to adjacent land.
- Street Improvements: any street or thoroughfare, together with all appurtenances required by the City to be provided with such street or thoroughfare, and including but not limited to curbs, gutters, sidewalks, access ways, drainage facilities, and traffic control devices.
- Subdivider: Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner or authorized agent of such owner or equitable owner, of land sought to be subdivided.
- Subdivision: A division of any tract of land situated within the cooperate limits, or within the extraterritorial jurisdiction of the City of Umland, in two or more parts, including an addition to the municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts. "Subdivision" includes a division of a tract regardless of whether it is made by using a meets and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method including a replat.
- Submission Date: the date upon which all necessary forms, fees, plans, drawings and information has been submitted to the City, previewed for completeness, and deemed complete by the issuance of a submission receipt from the City.
- Tract: An undivided parcel of land, usually more than five acres, which in the future may be subdivided into smaller parcels identified as lots.
- Traffic Control Devices: means any device or apparatuses designed to control the flow of traffic, including but not limited to signage and lighting.
- Transportation Plan: the City's general plan, if any, providing for the flow of both vehicular and pedestrian movement and flow throughout the City, including but not limited to roads, streets, street improvements, access ways, easements and rights-of-way.
- Trunk Main: A water main whose primary purpose is to transport water to the distribution system within a subdivision or a sewer main whose primary purpose is to transport wastewater from the collection system within a subdivision or a storm drain system whose primary purpose is to transport stormwater runoff within a subdivision. Trunk mains are not directly connected to Individual lots.
- Utility: Any privately or publicly owned entity which furnishes to the public a service, including, without limitation, sanitary sewer, gas, electricity, water, telephone, petroleum products, telegraph, heat, steam or chilled water, together with the equipment, structures, and apparatuses belonging to such entity and located within and near the City.

SECTION 5. PUBLIC FACILITIES REQUIRED

- A. The subdivider is responsible for all costs associated with, furnishing, installing, and constructing public facilities (including but not limited to, water and wastewater systems, streets, sidewalks, trails, and drainage facilities) necessary for the proper development of the subdivision according to the minimum standards adopted by the City.
- B. All required public facilities must be designed and constructed in accordance with the City's adopted technical manuals, and any other standards, specifications, and drawings the City **may** adopt. If the City does not have jurisdiction over a facility, the subdivider must design the facility according to the specification of the provider.

SECTION 6. UNAUTHORIZED SUBDIVISIONS OR DEVELOPMENTS

- A. Permits in Unauthorized Subdivisions or Developments. No building, site, or construction permit of any kind **shall** be issued by the City for any site, structure or construction thereof on a lot until the plat has been accepted and approved by the City in accordance with this ordinance and filed for record with the County, with the following exceptions:
 - 1. Permits for additions to existing structures not exceeding twenty-five percent (25%) of the area of the building at the time of the adoption of this ordinance; and
 - 2. Permits for interior finish out or improvements to existing structures
 - 3. Permits for repair or maintenance
- B. Utility Services in Unauthorized Subdivisions or Developments. No utility **shall** install or construct facilities within a subdivision or development unless the final plat has been accepted and approved by the City in accordance with this Ordinance, filed for record with the County, or a site construction permit, which includes utility facility construction and installation, has been approved. Utilities **shall** not set consumer or end user meters, sell or provide any service on or to a lot unless all corresponding building permits and inspections have been approved. A Utility is required to verify that the lot to or upon which service is being requested is part of a final plat that has been accepted and approved by the City in accordance with this ordinance, filed for record with the County, and that all permits and inspections have been approved.
- C. Public Services in Unauthorized Subdivisions or Developments. The City **shall** not install, repair, maintain, authorize, or provide any streets or public utility services on or to any lot until a Plat, within which the lot is created has been accepted and approved by the City in accordance with this ordinance, and filed for record with the County.

SECTION 7. ROUGH PROPORTIONALITY AND FAIR SHARE

- A. If the City requires as a condition of approval for a property development project that the property owner bear a portion of the costs of municipal infrastructure improvements through dedication of property to the City, the payment of impact fees, the payment of construction costs, or the payment of other infrastructure related costs authorized by applicable law, the property owner's portion of the costs **may not** generally exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development as approved by the City Engineer.
- B. A property owner who disputes the determination made by the City Engineer under Subsection A above must appeal to the City Council, or the City Engineer's determination is final. At the appeal,

the property owner **may** present evidence and testimony under procedures adopted by the City Council. After hearing any testimony and reviewing the evidence, the City Council **shall** make the applicable determination as to the appeal within thirty (30) calendar days after the final submission of any testimony or evidence by the property owner.

- C. A property owner **may** appeal the determination of the City Council to a county or district court of the county in which the development is located within thirty (30) calendar days after the final determination by the City Council.

SECTION 8. VESTED RIGHTS

- A. Introduction. LGC Chapter 245 - Issuance of Local Permits, commonly referred to as the State's "Vested Rights Law", provides an opportunity for landowners or developers to "grandfather" or "vest" government regulations that apply to development at the time of the filing of a permit application. The City has established in this section an administrative procedure for consideration of any claim of a vested right.
- B. Definitions. The following terms **shall** have the meaning hereinafter ascribed to them under this section:
1. LGC – The Texas Local Government Code
 2. Project – an endeavor over which the City (a regulatory agency, as defined by LGC Chapter 245) exerts its jurisdiction and for which one or more permits are required to initiate, continue, or complete the endeavor.
 3. Permit - a license, certificate, approval, registration, consent, permit, contract, or other agreement for construction related to, or provisions of, service from a water or wastewater utility owned, operated, or controlled by the City, or other form of authorization required by law, rule, regulation, order or ordinance that a person must obtain to perform an action or initiate, continue, or complete a Project for which the permit is sought (i.e. master plan, preliminary plat or final plat).
- C. Administrative procedure for consideration of claim of vested rights. Any property owner claiming vested rights under Chapter 245 of the LGC, or other applicable vesting law, **shall** submit a letter explaining in sufficient detail the basis upon which the property owner is claiming vesting and, consequently, is exempt from or not subject to a particular current regulation, ordinance, rule, expiration date, or other requirement. Such written submission **shall** include, at a minimum, the following:
1. The name, mailing address, and telephone number of the property owner (or the property owner's duly authorized agent);
 2. Identification of the property, including the address (if it exists) and the plat reference (if it exists) or metes and bounds (if not platted), for which the property owner claims a vested right;
 3. Provide project name, type of permit and date the permit was filed;
 4. If a property owner claims that certain regulations do not apply to the project, the property owner must identify, with particularity, all requirements that the property owner claims do not apply; and
 5. Attach all supporting documents, if any.

- D. Vested rights determination. The City Administrator **will** review the request and supporting documents and issue a final administrative determination of whether a vested right exists in relation to the project and **shall** identify in writing to the property owner all claims for which vested rights have been granted (the "Vested Rights Determination").
- E. Appeal of Vested Rights Determination. If the property owner believes that the Vested Rights Determination is in error, the property owner **shall** have the right to appeal such Vested Rights Determination to the City Council, which **will** have jurisdiction to hear and decide the appeal pursuant to this ordinance and LGC Chapter 245.
- F. Recognition of vested rights.
 - 1. A property owner's original permit application expires on or after the forty-fifth (45th) calendar day after the date the application is filed if:
 - (a) the property owner fails to provide documents or other information necessary to comply with the City's technical requirements relating to the form and content of the permit application;
 - (b) the City provides to the property owner, not later than the tenth (10th) business day after the date the application is filed, written notice of the failure that specifies the necessary documents or other information and the date the application **will** expire if the documents or other information is not provided; and
 - (c) the property owner fails to provide the specified documents or other information within the time provided in the written notice.
 - 2. Basis for vested rights. Only a project which was in progress (as defined by LGC Section 245.003) or for which a permit application was filed after September 1, 1997 **may** be eligible to claim vested rights; any project for which the permit application was filed prior September 1, 1997, or has expired, is not eligible. Vested rights do not begin to accrue until the filing of an original application or subdivision master plan or plat application that gives the City fair notice of the project to which the permit applies and the nature of the permit sought.
 - 3. A project **will** expire in five (5) years from the date the first permit application was filed for the project with City if progress, as defined in LGC Section 245.005, has not been made towards completion of the project. An expired project is considered dormant, vested rights lapse and the project must comply with all current ordinances and requirements.

SECTION 9. DEVELOPMENT MANUAL

- A. The Development Manual **shall** contain development application forms, required application materials, fees, and application submittal deadlines. The Development Manual **may** be adopted and updated from time to time by Resolution approved by City Council. A copy of the current Development Manual **shall** be available upon request.

SECTION 10. PUBLIC WORKS SPECIFICATION MANUAL

- A. The Public Works Specification Manual is a technical manual and **shall** contain specifications necessary to complete public projects including but not limited to roadway design specifications, traffic impact requirements, utility easement specifications, and driveway requirements. The Public Works Specification Manual **may** be adopted and updated from time to time by resolution approved

by the City Council. A copy of the current Public Works Specification Manual shall be available upon request.

SECTION 11. CONFLICTS BETWEEN REGULATIONS

- A. In the event of a conflict between the requirements of this ordinance and State law, the requirements of State law shall apply.
- B. In the event of a conflict between the regulations contained within this ordinance and regulations or standards contained within any other ordinance, code or regulation of the City, the more restrictive regulation shall apply.
- C. In the event of a conflict between the regulations contained within this ordinance and the City's Development Manual or Public Works Specification Manual, the requirements of this ordinance shall apply.

ARTICLE II. APPLICATION PROCEDURES

SECTION 1. GENERAL

- A. Purpose and Applicability.
 - 1. The purpose of this section is to establish application procedures, internal review procedures, public notice and hearing procedures, and review criteria for the processing of applications and actions that affect the development and use of property subject to the jurisdiction of the City of Umland.
 - 2. The owner of a tract of land located within the city limits or extraterritorial jurisdiction (ETJ) who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares parks or other parts must have a plat of the subdivision prepared and approved by the City. 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 of sale or other executory contract to convey, or by using any other method.
 - 3. All subdivisions of land located in the City or in the City's ETJ shall require a Plat approved by the City. It shall be unlawful for any land owner, or the agent of any land owner, to lay out, subdivide, plat or replat any land into lots, blocks and streets either within the City or within the City's ETJ without first receiving the approval of the City in accordance with this ordinance. No transfer or combination of land in the nature of a subdivision as defined herein shall be exempt from the provisions of this ordinance even though the instrument or document of transfer may describe land so subdivided by metes and bounds. Subdivisions of land in which each tract is greater than five (5) acres, each tract has access, and no public improvement is being dedicated are not subject to this ordinance
- B. Uniform Application Date

1. Applications shall be submitted to the city on the uniform application dates listed in the Application Submittal Calendar.

C. Complete Application Required

1. No application shall be accepted for processing unless it is accompanied by all documents, applicable fees and other materials as required by and prepared in accordance with this Ordinance, the Development Manual, and the requirements of Chapter 212 of the Texas Local Government Code. Applications which do not include all required information, fees and materials or in which such is not submitted in the proper format shall be considered incomplete, shall not be deemed filed with the City and shall be made available to the applicant for pick up at City Hall. All incomplete applications not picked up within five (5) business days may be discarded at the discretion of the City Administrator.

SECTION 2. INITIATION OF APPLICATION

- A. Application submittal. All development applications to be considered by any Board, Commission or Committee, City Council, or by the City Administrator shall be initiated by the filing of the application by the owner of the property on which the permit is applicable or by the owner's designated agent. In the event an application is submitted by a designated agent, the application must be accompanied by a written statement, signed by the owner, authorizing the agent to file the application on the owner's behalf.
- B. Determination of application completeness.
 1. All submitted development applications shall be subject to a determination of completeness by the City Administrator.
 2. No application shall be deemed complete and accepted for filing unless it is accompanied by all documents required by and prepared in accordance with the requirements of the City and any required fees have been paid.
 3. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this ordinance.
 4. Not later than the tenth (10th) business day after the date an application is submitted, the City Administrator shall make a written determination whether the application constitutes a complete application. This shall include a determination that all information and documents required by the City for the type of permit being requested have been submitted. A determination that the application is incomplete shall be sent to the applicant within such time period by email to the address listed on the application or by United States mail at the address listed on the application with the date the application was submitted. The determination shall specify the documents or other information needed to complete the application and shall state that the application will expire if the documents or other information are not submitted within forty-five (45) calendar days after the date the application was submitted.
 5. The processing of an application by any City employee other than the City Administrator prior to the time the application is officially determined to be complete shall not be binding on the City as the official acceptance of the application for filing.
 6. A development application shall be deemed to expire on the forty-fifth (45th) calendar day after the application is submitted to the City Administrator for processing if the applicant fails to

provide documents or other information necessary to meet the requirements of this ordinance or other requirements as specified in the determination provided to the applicant. Upon expiration, the application **will** be discarded, and a new application must be submitted.

7. No vested rights accrue solely from the submission of an application that has expired pursuant to this section, or from the submission of a complete application that is subsequently denied.
- C. Application withdrawal. Any request for withdrawal of an application must be submitted in writing to the City Administrator. If notification is required for the application and has been properly given via publication in the newspaper and/or written notification to surrounding property owners, such application must be placed on the agenda. The staff representative **shall** notify the Board, Commission, Committee or the City Council of the request for withdrawal. Application fees are not refundable unless reimbursement is otherwise authorized by the City Administrator.

SECTION 3. PRE-APPLICATION CONFERENCE

- A. Prior to submitting an application for approval of a subdivision master plan, subdivision plat, or plat waiver, the subdivider **shall** schedule a pre-application conference with the City Administrator or his/her designee and present a proposed plan for the subdivision to City Staff for comments and advice on the procedures, specifications, and standards required by the City for the subdivision of land. At such a meeting the City Staff **will** be able to make any suggestions that would direct the proposed subdivision toward desirable objectives and possibly prevent unnecessary work and expense if objectives are not met. No vesting **shall** occur under this subsection in accordance with this ordinance. The Applicant **may** be responsible for paying a pre-application conference fee and any additional city consultant fees when consultation with city consultants is required. It is strongly recommended that the applicant retain professional services, such as a civil engineer or surveyor, to assist in preparing the application and attend the pre-application conference. Pre-application conferences are mandatory prior to submitting an application for a subdivision master plan, subdivision plat, or plat waiver.

SECTION 4. CERTIFICATION OF EXHIBITS

- A. Applicability. Prior to filing an application for a subdivision master plan or subdivision plat approval the applicant **shall** secure letters of certification as required by this ordinance and the Development Manual. A request for letters of certification and required items **shall** be submitted by the applicant as required by the Development Manual.
- B. Application requirements. Any request for a letter of certification **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision.
 1. Submittal. A request for a letter of certification **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other City department or consultant.
 2. Decision by the City Administrator.
 - (a) After the City Administrator has determined whether the request for letters of certification and required technical data is complete, each certifying department **shall** issue comments, approve or deny a letter of certification within forty-five (45) calendar days. When a

- certifying department determines that the proposed plan, plat or any of the required accompanying data does not conform with the requirements of this ordinance or other applicable regulations, ordinances or laws, the applicant **may** at his/her option revise any nonconforming aspects. If any data is revised and resubmitted, the certifying department **shall** have up to thirty (30) calendar days from the latest date of submission to issue comments, approve or deny a letter of certification.
- (b) If a letter of certification is not issued or denied within the time periods prescribed in subsection above, the same **shall** be deemed issued and the applicant **may** submit an application for subdivision master plan or subdivision plat, without submitting the letter of certification.
 - (c) All applicable fees, including any city consultant fees must be paid before a letter of certification **may** be issued.
3. Scope of issuance. A letter of certification does not authorize the development or subdivision of land. Upon receipt of all required letters of certification, the applicant **may** submit an application for subdivision master plan or subdivision plat approval. Letters of certification **shall** remain valid for one (1) year from the date of issuance by the certifying department. After that time period, new or updated letters of certification **shall** be required to file a subdivision master plan or subdivision plat application.
4. Amendments. A letter of certification **may** be amended prior to filing an application for subdivision approval if the proposed amendment:
- (a) Does not increase the number of lots subject to the application.
 - (b) Does not increase by more than five percent (5%) the lineal footage of roadways or the areas within the paved surface of the street right-of-way.
 - (c) Does not reduce the amount of open space within the proposed subdivision.
 - (d) Does not alter or change the approved stormwater plan.
5. Letter of certification authorization. A letter of certification is not recorded. A letter of certification **shall** be maintained by the applicant and presented with the application for subdivision master plan or subdivision plat approval.

SECTION 5. SUBDIVISION MASTER PLAN

A. Applicability

1. A subdivision master plan is required to provide for review of certain developments for compliance with, this ordinance, any additional adopted plans (i.e. water, wastewater, transportation, drainage), the compatibility of land uses, and the coordination of improvements within and among individual parcels of land or phases of development prior to approval of a preliminary or final plat. A subdivision master plan is required for any development meeting one or more following criteria:
 - (a) The property is undeveloped and is greater than fifty (50) acres in size; or
 - (b) The proposed subdivision of land is to occur in phases.
2. If a preliminary plat encompasses the entire development and tract of land, a subdivision master plan **will** not be required.

- B. Application requirements. Any request for a subdivision master plan shall be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision.
1. Submittal. An application for a subdivision master plan shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator shall forward a written recommendation to the Planning and Zoning Commission for consideration.
 2. Decision by Planning and Zoning Commission. The Planning and Zoning Commission shall receive the written recommendation of the City Administrator and shall consider the proposed subdivision master plan. The Planning and Zoning Commission shall act on the plan within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a subdivision master plan that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission may vote to approve with conditions or deny a subdivision master plan that does not satisfy all applicable regulations of the City.
 3. Conditional approval and denial. If the Planning and Zoning Commission conditionally approves or denies the subdivision master plan, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. Applicant response to conditional approval or denial. After the conditional approval or denial of a subdivision master plan, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the subdivision master plan. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously denied subdivision master plan or conditionally approved, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
 5. Subdivision master plan authorization. Approval of a subdivision master plan by the Planning and Zoning Commission shall be deemed as an expression of the approval of the layout submitted on the master plan as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a preliminary plat in accordance with the requirements of the City.
- D. Criteria for approval. The Planning and Zoning Commission, in considering final action on a subdivision master plan, should consider the following criteria:
1. the subdivision master plan is consistent with all city requirements including zoning requirements for the property or any development regulations approved as part of a development agreement;
 2. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities are adequate to serve each phase of the subdivision;

3. the schedule of development is feasible and prudent and assures that the proposed development **will** progress to completion within the time limits proposed;
 4. the location, size and sequence of the phases of development proposed assures orderly and efficient development of the land subject to the plan; and
 5. all applicable fees, including any city consultant fees, have been paid.
- E. Expiration. The approval of a subdivision master plan **shall** remain in effect for a period of two (2) years after the date the application was approved, during which period the applicant **shall** submit and receive approval for a preliminary plat for any portion of the land subject to the subdivision master plan. If a preliminary plat has not been approved within the two (2) year period, the subdivision master plan approval **shall** expire and the plan **shall** be null and void.
- F. Revisions to an approved subdivision master plan.
1. Minor changes. Minor changes in the design of the subdivision subject to a subdivision master plan **may** be incorporated in an application for approval of a preliminary plat without the necessity of filing a new application for approval of a subdivision master plan. Minor changes **shall** include adjustment in street or alley alignments, lengths, and adjustment of lot lines that do not result in creation of additional lots, provided that such changes are consistent with any approved prior applications.
 2. Major Changes. All other proposed changes to the design of the subdivision subject to an approved subdivision master plan **shall** be deemed major amendments that require submittal and approval of a new application for a subdivision master plan before approval of a preliminary plat.

SECTION 6. PRELIMINARY PLAT

- A. Applicability
1. A preliminary plat is required to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable City requirements.
 2. A preliminary plat **may** be submitted for any phase of development consistent with an approved subdivision master plan. Where a subdivision master plan is not required and the area to be platted is part of a larger tract of land, the preliminary plat must encompass the entire tract of land under ownership of the subdivider and **shall** provide a preliminary layout of streets, lots, blocks, utilities and drainage for the larger tract. A final plat **may** be submitted for individual lots to be platted out of the larger parcel.
- B. Application requirements. Any request for a preliminary plat **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision.
1. Submittal. An application for a preliminary plat **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator **shall** forward a written recommendation to the Planning and Zoning Commission for consideration.

2. Decision by Planning and Zoning Commission. The Planning and Zoning Commission **shall** receive the written recommendation of the City Administrator and **shall** consider the proposed plat. The Planning and Zoning Commission **shall** act on the plat within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a preliminary plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission **may** vote to approve with conditions or deny a preliminary plat that does not satisfy all applicable regulations of the City.
 3. Conditional approval and denial. If the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement **may not** be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. Applicant response to conditional approval or denial. After the conditional approval or denial of a plat, the applicant **may** submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the preliminary plat. The Planning and Zoning Commission **shall** determine whether to approve or deny the applicant's previously conditionally approved or denied plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action **shall** be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
 5. Preliminary plat authorization. Approval of a preliminary plat by the Planning and Zoning Commission **shall** be deemed as an expression of the approval of the layout submitted on the plat as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a final plat in accordance with the requirements of this ordinance.
- D. Criteria for approval. The Planning and Zoning Commission, in considering final action on a preliminary plat, should consider the following criteria:
1. the plat is consistent with all city requirements including zoning requirements for the property;
 2. the plat conforms to the general layout of the subdivision master plan (if applicable) and is consistent with the phasing plan approved therein;
 3. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision; and
 4. all applicable fees, including any city consultant fees, have been paid.
- E. Expiration and extension.
1. Expiration. The approval of a preliminary plat **shall** remain in effect for a period of two (2) years after the date the application was approved, during which period the applicant **shall** submit and receive approval for a final plat for any portion of the land subject to the preliminary plat. If a final plat has not been approved within the two (2) year period, the preliminary plat approval, unless extended, **shall** expire and the plat **shall** be null and void.
 2. Extension. At the request of the property owners or their representative, the expiration date for approval of a preliminary plat **may** be extended by the Planning and Zoning Commission for a

period not to exceed six (6) months. A preliminary plat is not subject to reinstatement following expiration.

F. Revisions to an approved preliminary plat.

1. Minor changes. Minor changes in the design of the subdivision subject to a preliminary plat **may** be incorporated in an application for approval of a final plat without the necessity of filing a new application for approval of a preliminary plat. Minor changes **shall** include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
2. Major Changes. All other proposed changes to the design of the subdivision **shall** be deemed major changes which includes but is not limited to the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, changes to drainage. The City Administrator **shall** determine if a change is minor or major. Major changes **shall** require submittal of a revised subdivision master plan (if applicable) and preliminary plat which is submitted and processed the same as a new subdivision master plan application and new preliminary plat application.

SECTION 7. FINAL PLAT

A. Applicability

1. A final plat is required to assure that the division or development of the land subject to the plat is consistent with all standards of this ordinance pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the plat to be recorded, and to assure that the subdivision or development meets all other standards of this ordinance to enable initiation of site preparation activities for any lot or tract subject to the plat. Approval of a final plat **shall** be required prior to any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.
2. A final plat **may** be submitted for any phase of development consistent with an approved preliminary plat.

B. Application requirements. Any request for a final plat **shall** be accompanied by an application prepared in accordance with the City's Development Manual.

C. Processing of application and decision

1. Submittal. An application for a final plat **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator **shall** forward a written recommendation to the Planning and Zoning Commission for consideration.

2. Decision by Planning and Zoning Commission. The Planning and Zoning Commission **shall** receive the written recommendation of the City Administrator and **shall** consider the proposed final plat. The Planning and Zoning Commission **shall** act on the plat within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a final plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission **may** vote to approve with conditions or deny a final plat that does not satisfy all applicable regulations of the City.
 3. Conditional approval and denial. If the Planning and Zoning Commission conditionally approves or denies the final plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement **may not** be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. Applicant response to conditional approval or denial. After the conditional approval or denial of a plat, the applicant **may** submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the final plat. The Planning and Zoning Commission **shall** determine whether to approve or deny the applicant's previously conditionally approved or denied plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action **shall** be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
- D. Criteria for approval. The Planning and Zoning Commission, in considering final action on a final plat, should consider the following criteria:
1. the plat is consistent with all city requirements including zoning requirements for the property;
 2. the final plat conforms to the approved preliminary plat, or a phase of the approved preliminary plat, except for minor changes that **may** be approved without the necessity of revising the approved preliminary plat;
 3. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision; and
 4. all applicable fees, including any city consultant fees, have been paid.
- E. Expiration and extension.
1. Expiration. The approval of a final plat **shall** remain in effect for a period of two (2) years after the date the application was approved by the Planning and Zoning Commission, during which period the applicant **shall** submit any required revisions for approval and recordation of the plat. If the final plat has not been recorded within the two (2) year period, the final plat approval, unless extended or otherwise stated in a subdivision improvement agreement, **shall** expire and the plat **shall** be null and void.
 2. Extension. At the request of the property owner or their representative, the expiration date for approval of a final plat **may** be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A final plat is not subject to reinstatement following expiration.
- F. Revisions following approval of final plat

1. Minor Changes. An applicant **may** make minor changes to an approved final plat to reflect changes arising from installation of public improvements thereafter, provided that the approved final plat has not been recorded and that approval of the revised final plat occurs prior to expiration of approval of the initial final plat application. The City Administrator is authorized to approve minor changes to an approved final plat. If the approved final plat has been recorded, an amending plat or replat must be approved and recorded. Minor changes **shall** include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
2. Major Changes. All other proposed changes **shall** be deemed major changes which includes but is not limited to the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the preliminary plat, any change to the open space dedication requirement, changes to drainage. The City Administrator **shall** determine if a change is minor or major. Major changes **shall** require submittal of a revised final plat which is submitted and processed the same as a new final plat application. Major changes **may** also require the submittal of a new application for approval of a preliminary plat before approval of a revised final plat.

SECTION 8. MINOR PLAT

- A. Applicability. A minor plat **may** be submitted for approval where the proposed division of land involves four (4) or fewer lots fronting onto an existing street and not requiring the creation of any new street or the extension of municipal facilities.
- B. Application Requirements. Any request for a minor plat **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
 1. Submittal. An application for a minor plat **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant.
 2. Minor plat approval. The City Administrator **may** approve a minor plat. The City Administrator **may**, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Administrator **shall** not disapprove a minor plat and **shall** be required to refer any plat for which approval is refused to the Planning and Zoning Commission. The City Administrator or the Planning and Zoning Commission **shall** act on the plat within thirty (30) calendar days after the date a complete application is filed.
 3. Conditional Approval and Denial. If the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement **may not** be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 4. Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant **may** submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is

authorized to approve revisions required for conditional approval of the plat. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously conditionally approved or denied plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.

D. Criteria for approval. The City Administrator in considering final action on a minor plat should consider the following criteria:

1. the plat is consistent with all city requirements including zoning requirements for the property;
2. all lots to be created by the plat already are adequately served by all required public utilities and infrastructure;
3. the plat does not require the extension of any municipal facilities to serve any lot within the subdivision; and
4. all applicable fees, including any city consultant fees, have been paid.

E. Expiration and extension

1. Expiration. The approval of a minor plat shall remain in effect for a period of two (2) years after the date the application was approved by the City Administrator or the Planning and Zoning Commission. If the minor plat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
2. Extension. At the request of the property owners or their representative, the expiration date for approval of a minor plat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A minor plat is not subject to reinstatement following expiration.

SECTION 9. AMENDING PLAT

A. Applicability. An amending plat may be submitted for approval, and if approved and recorded is controlling over the preceding plat without vacation of that plat and without notice and hearing, if the amending plat is signed and acknowledged by all owners of the property being replatted and is solely for one (1) or more of the following purposes:

1. to correct an error in a course or distance shown on the preceding plat;
2. to add a course or distance that was omitted on the preceding plat;
3. to correct an error in a real property description shown on the preceding plat;
4. to indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
5. to show the location or character of a monument which has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
6. to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
7. to correct an error in courses and distances of lot lines between two (2) adjacent lots if:

- (a) both lot owners join in the application for amending the plat;
 - (b) neither lot is abolished;
 - (c) the amendment does not attempt to remove recorded covenants or restrictions; and
 - (d) the amendment does not have a materially adverse effect on the property rights of the other owners in the plat;
8. to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
9. to relocate one or more lot lines between one or more adjacent lots if:
- (a) the owners of all those lots join in the application for amending the plat;
 - (b) the amendment does not attempt to remove recorded covenants or restrictions; or
 - (c) the amendment does not increase the number of lots;
10. to make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
- (a) the changes do not affect applicable zoning and other regulations of the municipality;
 - (b) the changes do not attempt to amend or remove any covenants or restrictions; and
 - (c) the area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area;
11. to replat one or more lots fronting on an existing street if:
- (a) the owners of all those lots join in the application for amending the plat;
 - (b) the amendment does not attempt to remove recorded covenants or restrictions;
 - (c) the amendment does not increase the number of lots; and
 - (d) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- B. Application Requirements. Any request for an amending plat **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
1. Submittal. An application for an amending plat **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant.
 2. Amending plat approval. The City Administrator **may** approve an amending plat. The City Administrator **may**, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Administrator **shall** not disapprove an amending plat and **shall** be required to refer any plat for which approval is refused to the Planning and Zoning Commission. The City Administrator or the Planning and Zoning Commission **shall** act on the plat within thirty (30) calendar days after the date a complete application is filed.
 3. Conditional Approval and Denial. If the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or

reason specified in the written statement **may not** be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.

4. Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a plat, the applicant **may** submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is authorized to approve revisions required for conditional approval of the plat. The Planning and Zoning Commission **shall** determine whether to approve or deny the applicant's previously conditionally approved or denied plat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action **shall** be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.
- D. Criteria for approval. The City Administrator in considering final action on an amending plat should consider the following criteria:
1. the plat is consistent with all city requirements including zoning requirements for the property;
 2. all lots to be created by the plat already are adequately served by all required public utilities and infrastructure;
 3. the plat does not require the extension of any municipal facilities to serve any lot within the subdivision; and
 4. all applicable fees, including any city consultant fees, have been paid.
- E. Expiration and extension
1. Expiration. The approval of an amending plat **shall** remain in effect for a period of two (2) years after the date the application was approved by the City Administrator or the Planning and Zoning Commission. If the amending plat has not been recorded within the two (2) year period, the plat approval, unless extended, **shall** expire and the plat **shall** be deemed null and void.
 2. Extension. At the request of the property owners or their representative, the expiration date for approval of an amending plat **may** be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. An amending plat is not subject to reinstatement following expiration.

SECTION 10. REPLAT

- A. Applicability. A replat is any plat that complies with LGC sections 212.014, 212.0145, and 212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat. Replatting a portion of a recorded lot is not permitted.
- B. Application requirements. Any request for a replat plat **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of application and decision
 1. Submittal. An application for a replat **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator **shall** forward a written recommendation to the Planning and Zoning Commission for consideration.

2. Notification requirements for certain replats.
 - (a) Applicability. An application for a replat which is also accompanied by a waiver or variance request requires a public hearing and notice if:
 - (i) during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - (ii) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - (b) Public hearing notice. Notice of the public hearing **shall** be given at least sixteen (16) calendar days before the date of the public hearing by:
 - (i) publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and
 - (ii) written notice with a copy of LGC Sec. 212.015(c) attached, mailed to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested.
 - (c) Protests. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission, prior to the close of the public hearing. If the proposed replat is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the Planning and Zoning Commission members present.
 - (i) In computing the percentage of land area for protest, the area of streets and alleys **shall** be included.
3. Decision by the Planning and Zoning Commission. The Planning and Zoning Commission **shall** receive the recommendation of the City Administrator and **shall** consider the proposed replat. A public hearing **shall** be held if the proposed replat is accompanied by a waiver or variance request in accordance with LGC Sec. 212.015. The Planning and Zoning Commission **shall** act on the replat within thirty (30) calendar days after the date a complete application is filed. The Planning and Zoning Commission must approve a replat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of the City. The Planning and Zoning Commission **may** vote to approve with conditions or deny a replat that does not satisfy all applicable regulations of the City.
4. Conditional Approval and Denial. If the Planning and Zoning Commission conditionally approves or denies the replat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement **may not** be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
5. Applicant Response to Conditional Approval or Denial. After the conditional approval or denial of a replat, the applicant **may** submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Administrator is

authorized to approve revisions required for conditional approval of the replat. The Planning and Zoning Commission shall determine whether to approve or deny the applicant's previously conditionally approved or denied replat, if forwarded to the Planning and Zoning Commission by the City Administrator. Action shall be taken by the City Administrator or Planning and Zoning Commission no later than the fifteenth (15th) calendar day after the date the response was submitted.

- D. Criteria for Approval. The Planning and Zoning Commission in considering final action on a replat should consider the following criteria:
1. the replat is consistent with all city requirements including zoning requirements for the property;
 2. the replat is signed and acknowledged by only the owners of the property being replatted;
 3. if required, a public hearing was held and parties in interest and citizens have had an opportunity to be heard;
 4. if required the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision;
 5. the replat does not attempt to amend or remove any covenants or restrictions; and
 6. all applicable fees, including any city consultant fees, have been paid.
- E. Notification of approval for certain replats. If a proposed replat does not require a variance or exception, the municipality shall, not later than the 15th calendar day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This subsection does not apply to a proposed replat if the Planning and Zoning Commission holds a public hearing and gives notice of the hearing in the manner provided by in Sec.2.10.C.2 above.
1. The notice of a replat approval must include:
 - (a) the zoning designation of the property after the replat; and
 - (b) a telephone number and e-mail address an owner of a lot may use to contact the City about the replat.
- F. Expiration and extension
1. Expiration. The approval of a replat shall remain in effect for a period of two (2) years after the date the application was approved by the Planning and Zoning Commission. If the replat has not been recorded within the two (2) year period, the plat approval, unless extended, shall expire and the plat shall be deemed null and void.
 2. Extension. At the request of the property owners or their representative, the expiration date for approval of a replat may be extended by the Planning and Zoning Commission for a period not to exceed six (6) months. A replat is not subject to reinstatement following expiration.

SECTION 11. VACATING A PLAT

- A. Applicability. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits. An applicant may vacate the plat of a tract covered by

an approved final plat at any time before any lot in the plat is sold. If lots in the plat have been sold, the plat or any part of the plat, **may** be vacated on the application of all the owners of lots in the plat, with approval obtained in the manner prescribed for the original plat.

- B. Application Requirements. Any request for vacating a plat **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
 - 1. Submittal. An application for vacating a plat **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator **shall** forward a written recommendation to the Planning and Zoning Commission for consideration.
 - 2. Decision by the Planning and Zoning Commission. The Planning and Zoning Commission **shall** receive the recommendation of the City Administrator and **shall** consider the proposed plat vacation. The Planning and Zoning Commission **may** vote to approve, approve with conditions or deny a request for vacating a plat.
- D. Criteria for approval. The Planning and Zoning Commission in considering action on vacating a plat should consider the following criteria:
 - 1. the vacating plat is consistent with all zoning requirements for the property, all other requirements of this ordinance that apply to the plat vacation, and any other applicable city requirements;
 - 2. the vacating plat is signed and acknowledged by all owners of lots in the original plat;
 - 3. the vacating plat is consistent with all other state requirements pertaining to vacating a plat; and
 - 4. all applicable fees, including any city consultant fees, have been paid.
- E. Effect of Vacation
 - 1. Upon the execution and recording of the vacating instrument, the previous plat **shall** no longer be in effect.
 - 2. Regardless of the Planning and Zoning Commission's action on the petition, the applicant **will** have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as **may** have previously been agreed to by the City Council.
 - 3. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
 - 4. The City, at its discretion, **shall** have the right to retain all or specific portions of road right-of-way or easements shown on the plat being considered for vacation. However, the Planning and Zoning Commission **shall** consider a request for vacating a plat upon satisfactory conveyance of easements or right-of-way in a separate legal document using forms provided by the City Attorney's office.

SECTION 12. RESERVED

SECTION 12. RECORDATION

- A. Recording procedures. After approval of a final plat, minor plat, amending plat or replat and acceptance of any required public improvements or execution of a Subdivision Improvement Agreement pursuant to this ordinance, the applicant **may** submit all required items to the City to record the plat in the county in which the land is located. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of a Subdivision Improvement Agreement, the City Administrator **shall** procure the signature of the City Engineer and the Chairperson of the Planning and Zoning Commission or his/her designee on the plat and **shall** promptly cause the plat to be recorded. No plat **will** be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a tax certificate from the applicable county tax office has been received for the subject property.

SECTION 13. PLAT WAIVERS

- A. General. The City Council **may** authorize waivers from the provisions of this ordinance when, in its opinion, undue hardship **will** result from requiring strict compliance. In granting a waiver, the City Council **shall** prescribe only conditions that it deems necessary or desirable to the public interest. In making their findings, the City Council **shall** take into account the nature of the proposed use of the land involved and existing uses of land in the vicinity, the number of persons who **will** reside or work in the proposed subdivision, and the probable effect of such waivers upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.
- B. Timing. Plat waivers **shall** be submitted prior to filing a plat application. The City **will** not issue a letter of certification for any proposed subdivision plat exhibits requesting a plat waiver until the requested waiver has been approved.
- C. Application requirements. Any request for a plat waiver **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- D. Processing of application and decision
1. Submittal. An application for a plat waiver **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant. After appropriate review, the City Administrator **shall** forward a written recommendation to the City Council for consideration.
 2. Decision by City Council. The City Council **shall** receive the written recommendation of the City Administrator and **shall** consider the proposed plat waiver request. The City Council **may** vote to approve, approve with conditions, or deny the plat waiver request.
- E. Conditions. In approving a plat waiver, the City Council **may** prescribe appropriate conditions that it deems necessary or desirable to the public interest.
- F. Criteria for approval. The City Council, in considering action on a plat waiver should consider the following criteria:
1. That the granting of the waiver **will** not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and

2. The granting of the waiver is in harmony with the general purpose and intent of this ordinance so that the public health, safety, and welfare **may** be secured and justice done; and
 3. The granting of the waiver is necessary for the preservation and enjoyment of a substantial property right; and
 4. There are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this ordinance would deprive the Subdivider of the reasonable use of the land; and
 5. The waiver request represents the minimum degree of variation, in the opinion of City Council, of requirements necessary to meet the needs of the subdivider; and
 6. The waiver is to a provision of this ordinance; and
 7. That the granting of the waiver **will** not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this ordinance; and
 8. All applicable fees, including any city consultant fees, have been paid.
- G. The findings of the City Council, together with the specified facts upon which such findings are based, **shall** be incorporated into the official minutes of the City Council meeting at which such waiver is approved.
- H. Expiration. Approved waivers **shall** expire 12 months after approval if a plat application has not been filed with the City. If a plat application is filed before the waiver expires, the approved waiver **shall** be incorporated into the plat application and follow the same expiration timelines as the associated plat application.
- I. Limitations. City Council **shall** not authorize a waiver that would constitute a violation of a valid law, ordinance, code or regulation of the City.

SECTION 14. PUBLIC INFRASTRUCTURE CONSTRUCTION PLANS

- A. Applicability. The provisions of this section apply to the review of construction plans for any public infrastructure improvements.
- B. Application Requirements. Any request for review of construction plans for any public infrastructure improvements **shall** be accompanied by an application prepared in accordance with the City's Development Manual.
- C. Processing of Application and Decision
1. An application **shall** be submitted to the City Administrator. The City Administrator **shall** review the application for completeness. The City Administrator **may** request a review and recommendation from any other city department or consultant.
 2. Decision by the City Administrator. The City Administrator **may** approve, approve with conditions or deny the construction plans.
- D. Criteria for Approval. The City Administrator **shall** apply the following criteria in making a decision on the construction plans:
1. The construction plans are consistent with the approved preliminary plat or the proposed final plat or replat, in the event that the public infrastructure improvements are in relation to a plat; and

2. The construction plans conform to all applicable regulations pertaining to the construction and installation of public infrastructure improvements; and
 3. All applicable fees, including any city consultant fees, have been paid.
- E. Expiration. The approval of construction plans shall remain in effect for two (2) years after the date the construction plans were approved by the City Administrator. If a public infrastructure permit has not been issued and construction of the project has not commenced during the two (2) year period, approval of the construction plans shall expire. For public infrastructure improvements that are associated with a final plat, approval of the construction plans shall remain in effect for the time that approval of the final plat is in effect and shall expire when approval of the final plat expires, unless an extension is granted.
- F. Extension. At the written request of the property owner or their authorized agent, the expiration date for the approval of construction plans may be extended by the City Administrator for a period not to exceed six (6) months.
- G. Timing of Public Infrastructure Improvements.
1. Completion prior to final plat recordation. For public infrastructure improvements associated with a proposed subdivision or development, except as provided below, completion of the improvements shall be in accordance with the approved construction plans and shall occur before an approved final plat is recorded, unless the obligation to construct public infrastructure improvements has been deferred and an improvement agreement is executed.
 2. Installation after final plat recordation. The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. The City Administrator may approve or deny the request to defer installation of public infrastructure improvements. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a Subdivision Improvement Agreement and provision of sufficient security.
 3. Off-Site Easements. All necessary off-site easements required for installation of off-site public improvements to serve the subdivision or development shall be acquired by the subdivider or developer and conveyed solely to the City by an instrument approved by the City.

SECTION 15. PUBLIC INFRASTRUCTURE PERMIT, INSPECTIONS AND ACCEPTANCE OF PUBLIC INFRASTRUCTURE

- A. Applicability. The provisions of this section apply to the construction of any public infrastructure improvements.
- B. Application Requirements. Any request for a public infrastructure permit shall be accompanied by an application prepared in accordance with the City's Development Manual.
1. Applications for public infrastructure, subdivision entry features or any other permits and utility connections associated with a subdivision shall only be accepted and considered after the City has approved the final plat unless otherwise authorized by the City Administrator.
- C. Processing of Application and Decision

1. An application shall be submitted to the City Administrator. The City Administrator shall review the application for completeness. The City Administrator may request a review and recommendation from any other city department or consultant.
 2. Decision by the City Administrator. The City Administrator may approve, approve with conditions or deny the public infrastructure permit.
- D. Criteria for Approval. The City Administrator shall apply the following criteria in making a decision on the public infrastructure permit:
1. The application is consistent with the approved preliminary plat or the proposed final plat or replat, in the event that the public infrastructure improvements are in relation to a plat; and
 2. The application conforms to all applicable regulations pertaining to the construction and installation of public infrastructure improvements; and
 3. All applicable fees, including any city consultant fees, have been paid.
- E. Expiration. The approval of a public infrastructure permit shall remain in effect for two (2) years after the date the permit was approved by the City Administrator. If construction of the project has not commenced during the two (2) year period, the public infrastructure permit shall expire. For public infrastructure permits that are associated with a final plat, approval of the public infrastructure permit shall remain in effect for the time that approval of the final plat is in effect and shall expire when approval of the final plat expires, unless an extension is granted.
- F. Extension. At the written request of the property owner or their authorized agent, the expiration date for the public infrastructure permit may be extended by the City Administrator for a period not to exceed six (6) months. A maximum of two (2) extension may be granted.
- G. Inspections of Public Infrastructure Improvements.
1. Inspections. The City shall from time to time inspect the construction of all utility facilities and streets in the subdivision or development during the course of construction to see that they comply with the standards governing them. In this regard, free access to the subdivision or development shall be accorded the City by the applicant and their agents and employees. Inspection of the public infrastructure improvements shall be conducted by the City or its representatives. Construction shall be in accordance with the approved construction plans. Any significant change in design required during construction shall be subject to approval by the City Administrator.
- H. Acceptance of Public Infrastructure Improvements.
1. Upon the completion of construction of any utility or public improvement, a public infrastructure improvements acceptance package shall be submitted in accordance with the City's Development Manual.
 2. Submission of as-built plans or record drawings. The City shall not accept dedication of required public improvements until the applicant has submitted detailed "as-built" record drawings in accordance with City requirements. As-built plans or record drawings shall be submitted in accordance with the City's Development Manual and shall be dated, signed and certified by the engineer in charge, showing all features as actually installed, including materials, size, location, depth of elevation, numbers, end of lines, connections, wyes, valves, storm sewer drains, inlets, and any other pertinent items as applicable.

3. Acceptance of improvements. When the City Administrator has determined that the public infrastructure improvements have been installed in accordance with the approved Construction Plans, the City Administrator shall accept such improvements on behalf of the City. Acceptance of the improvements shall mean that the property owner has transferred all rights to all the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City Administrator shall have a certificate issued to the property owner stating that all required public improvements have been satisfactorily completed.
- I. Maintenance and Warranty of Improvements.
 1. Maintenance during construction. The developer shall maintain all required public improvements during construction of the development.
 2. Bond. The developer or owner shall covenant to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements or following the date of plat recordation, whichever occurs later. A warranty bond shall be provided in the amount of 20% of the costs of the improvements for such period. All public improvements shall be bonded, and bond submitted to the City prior to plat recordation if applicable.

SECTION 16. SUBDIVISION IMPROVEMENT AGREEMENTS

- A. Deferral of public improvements. The property owner or applicant may request to defer the obligation to construct and install one (1) or more public improvements to serve the associated subdivision until after final plat recordation. The request shall be submitted in writing and specify what is being requested for deferral. The City Administrator, at their discretion, may approve or deny the request to defer installation of public infrastructure improvements. The City Administrator may, for any reason, elect to present the deferral request to City Council for approval. Deferral of the obligation to install public improvements if granted shall be conditioned on execution of a Subdivision Improvement Agreement and provision of sufficient security.
- B. Obligations under agreement. Whenever public improvements to serve development are deferred until after recordation of the final plat, the property owner shall enter into a Subdivision Improvement Agreement and provide adequate security as determined by the City Administrator. The Agreement shall be subject to review and approval by the City Administrator and any other city department or consultant they deem necessary. The Agreement shall contain the following minimum provisions:
 1. covenants to complete the improvements be no later than two (2) years after approval of the final plat, unless otherwise stipulated in the terms and conditions of the Improvement Agreement;
 2. covenants to warranty the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements, unless stated otherwise in the Improvement Agreement;
 3. covenants to provide a warranty bond in the amount of 20% of the costs of the improvements for such period, unless stated otherwise in the Improvement Agreement;
 4. provisions for participation in the costs of the improvements by the City, if authorization has been obtained from the City Council, and a performance bond for such improvements from the contractor;

5. provisions for securing the obligations of the agreement in accordance with this ordinance; and
 6. such other terms and conditions as are agreed to by the City and the property owner, or as **may** be required by this ordinance or other City regulations.
- C. Covenants to run with the land. The Subdivision Improvement Agreement **shall** provide that the covenants contained in the Agreement run with the land and bind all successors, heirs and assignees of the property owner. All existing owners and lienholders **shall** be required to execute the Agreement or provide written consent to the covenants contained in the Agreement.
- D. Security for Completion of Improvements.
1. Security. Whenever the property owner has entered into a Subdivision Improvement Agreement to defer installation of public improvements, the property owner **shall** provide sufficient security for completion of the required public improvements. The security **shall** be in the form of a cash escrow, a performance bond or surety bond provided by a licensed surety company, or other security as approved by the City Administrator.
 2. Amount and acceptability. The security **shall** be issued in the minimum amount of 125% of the estimated cost of completion that is approved by the City Administrator for the required public infrastructure improvements. The terms of the security agreement **shall** be subject to the approval of the City Administrator and the City Attorney.
 3. Remedies. Where an Improvement Agreement has been executed and security has been posted and required public improvements have not been installed in accordance with the terms of the agreement, the City **may**:
 - (a) declare the Agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
 - (b) obtain funds under the security and complete the improvements itself or through a third party; or
 - (c) assign its right to receive funds under the security to any third party, including a subsequent owner of the development in exchange for the subsequent owner's agreement and posting of security to complete the public infrastructure improvements.

{Amend ARTICLE IV. THOROUGHFARES to repeal and replace Section 9 Traffic Control Devices; Street Names and Addresses}

ARTICLE IV. THOROUGHFARES

SECTION 9. TRAFFIC CONTROL DEVICES; STREET NAMES AND ADDRESSES

- A. All traffic control devices, including street signs, **shall** be provided and installed by the applicant and **shall** conform with the Texas Manual on Uniform Traffic Control Devices for Streets and Highways. Additionally, all street signs **shall** meet the City's sign design standards and specifications. All traffic control devices and signage must be installed on a street prior to any building permit for any structure to be constructed at any address on the street.
- B. Names of new streets **shall** not duplicate names of existing streets within the city and its extraterritorial jurisdiction unless the new street is a continuation of or part of a future continuation of such existing street. Street names **shall** be chosen to avoid similarity or

confusion with existing street names. A new street name shall not differ from an existing street name solely by the addition of a different auxiliary designation such as "avenue", "way", "boulevard", etc. Names of all new streets shall be from the City's list of approved street names. Any requested street names not on the list of approved street names shall be subject to approval by the City Council and be coordinated on an area wide basis. Street names shall have prior approval of the United States Postal Service and the applicable 9-1-1 district. Street addresses should also be coordinated with present existing addresses.

- C. The City will determine street numbers and advise the subdivider as to the street numbers. Address number placement or identification of each lot shall conform throughout the subdivision or development and must be visible from the street.

{Amend ARTICLE IV. THOROUGHFARES to add a new section for Traffic Impact Analysis}

ARTICLE IV. THOROUGHFARES

SECTION 11. TRAFFIC IMPACT ANALYSIS

- A. Applicability. Every application for development within the city shall be accompanied by a Traffic Impact Analysis (TIA) Determination form provided in the development manual. The TIA Determination Form shall be utilized to determine if a TIA is required.
- B. TIA required. The threshold requirement for a TIA and the level of TIA required shall be based on a land use or combination of land uses that result in peak hour trips in accordance with the following:
1. 75 or less peak hour trips generated – no TIA required
 2. 76 - 500 peak hour trips generated – Level 1 TIA required
 3. 501 – 1,000 peak hour trips generated – Level 2 TIA required
 4. 1,001 or more peak hour trips generated – Level 3 TIA required
- C. TIA scope. If a TIA is required, the applicant shall meet with the City Engineer to determine the scope for the study prior to beginning work on the TIA. The applicant shall be prepared, prior to the meeting with the City Engineer, to discuss potential intersections to be evaluated, data assumptions or any other information required by the City Engineer.
- D. TIA Study Area. The study area required for the TIA shall be based on the level of the TIA required. The City Engineer may, at his/her discretion, require additional area to be included in the study area if deemed necessary to provide adequate review of the transportation network. The following identifies the minimum acceptable study area:
1. TIA Level 1 - The site area and the study area within a one half (1/2) mile radius from the boundary of the site, or next intersection from the site.
 2. TIA Level 2 – The site area and the study area are within a three-quarter (3/4) mile radius from the boundary of the site, or next intersection from the site.
 3. TIA Level 3 - The site area and the study area are within a maximum of one (1) mile radius from the boundary of the site, or next intersection from the site.
- E. TIA contents. The TIA shall conform to accepted industry standards and shall include a detailed description of the area street network, a description of proposed land uses for all lots/parcels, the

anticipated stages of construction, the anticipated completion date of the various phases of land development, and the trigger points requiring implementation of necessary improvements. Previous TIA reports shall be submitted if the property has an existing TIA file. The City Engineer may require any additional information necessary to ensure adequate review. The TIA shall contain, at a minimum, the following information:

1. Trip generation rates for both the A.M. and P.M. peak periods (including weekends) using the Institute of Transportation Engineers, Trip Generation Manual for all of the land uses specified;
 2. Trip distribution;
 3. Adequacy determination for existing and proposed street cross-sections by phase of development;
 4. Intersection level of service analysis for each phase of development, driveway sizes, locations, and adequacy;
 5. Layout showing lane usage (pavement marking layout) for all boundary streets including driveway locations and roadway geometry within the site;
 6. Driveways and intersecting streets connecting to boundary streets including all lane widths, traffic islands, medians, sidewalks, curbs, traffic control devices and existing pavement conditions;
 7. Number of proposed turning lanes required for the site;
 8. Existing and proposed turning movement counts for the site;
 9. Identification of and timing for transportation improvements, if any, needed to maintain the same or higher level of service than exists prior to development during each phase of land development and the costs of those improvements, including costs of right-of-way acquisition, utility relocation, design and construction;
 10. The TIA shall establish the baseline traffic conditions and peak hour operations prior to development of the subdivision or site, which baseline shall establish the existing level of service that is to be maintained or bettered as the owners develop the subdivision or site over time;
 11. The TIA shall address streets and street intersections, and driveways on commercial sites;
 12. For projects adjacent to a TxDOT right-of-way, the TIA shall be accompanied by a letter from TxDOT which outlines any agreements between the developer and TxDOT for planned improvements; and
 13. The TIA shall be certified by a registered engineer with experience in the field of traffic engineering.
- F. TIA revisions. It is recognized that the scope of the developer's plans may change from time to time. The monitoring reports may also demonstrate changes in the area street conditions and travel patterns within and around the city. Periodic updates to the TIA may be required to address these issues and identify changes to the level of service at study intersections and streets. These updates shall address modifications to the magnitude and timing of improvements recommended by the original TIA. Any TIA amendments must be acceptable to the city.

{Amend ARTICLE VI. UTILITY EXTENSIONS AND GENERAL IMPROVEMENTS for consistency}

ARTICLE VI. UTILITY EXTENSIONS AND GENERAL IMPROVEMENTS

SECTION 1. GENERAL REQUIREMENTS

A. Obligations of Applicant.

1. The applicant **shall** construct and/or install at his/her own cost and expense all of the improvements and extensions required by this ordinance. The applicant **shall** comply with all other provisions of this ordinance prior to final acceptance of the subdivision or development by the City. All utility extensions and improvements required by this ordinance **shall** be placed underground except where required to cross an existing major thoroughfare.

B. Engineer Responsible.

1. The applicant **shall** retain the services of a registered professional engineer, licensed in the State of Texas, whose seal **shall** be placed on each sheet of the construction plan, and who **shall** be responsible for the design and supervision of all improvements required in the subdivision or development.

~~C. Construction Plans.~~

- ~~1. Three (3) complete sets of construction plans, specifications and contract documents and one digital copy in PDF format shall be filed with the City upon filing of a final plat or plan. These plans and specifications shall include street plans, drainage system plans, sanitary sewer system plans, water system plans and the overall utility layout. The street plans shall show roadway plan and profiles, roadway cross sections and longitudinal slope for drainage, a full description of the proposed pavement or other street improvement, and its grade and slope. The drainage, sanitary sewer, water and utility system plans shall show the dimensions and specifications of the improvements to be installed, including proposed position on the ground, specifications of materials and construction, profiles showing both ground surface and flow line, and other pertinent information of similar nature. All such plans shall comply with the specifications and design standards set forth in this ordinance.~~

C. Installation of Utilities Before Paving.

1. Unless the applicant received written approval from the City Administrator to the contrary, all utilities must be installed prior to the paving of a street or alley or portion thereof.

~~E. Inspection of Improvements.~~

- ~~1. The City shall from time to time inspect the construction of all utility facilities and streets in the subdivision or development during the course of construction to see that they comply with the standards governing them. In this regard, free access to the subdivision or development shall be accorded the City by the applicant and their agents and employees.~~

~~F. As-Built Plans or Drawings~~

- ~~1. Upon the completion of construction of any utility or improvement, a scanned set in PDF format, and two (2) sets of reproducible tracings of complete record drawings, dated, signed and certified by the engineer in charge, shall be filed with the City, showing all features as actually installed, including materials, size, location, depth of elevation, numbers, end of lines, connections, wyes, valves, storm sewer drains, inlets, and any other pertinent items. The City~~

~~shall not accept such public improvements until the foregoing has been submitted to and reviewed by the City Engineer.~~

D. Utility Easements.

1. Overhang Easements. Where existing utilities are not located underground or in alleys, an overhang easement of at least five (5) feet wide must be provided on the opposing side of the 20 foot easement strip, at a height at or above 10 feet. In all alleys with existing above ground utilities, overhang easements at least ten (10) feet wide must be provided on each side of the alley for electric and telephone lines, at a height at and above 10 feet or determined and requested by the utility provider.
2. Additional Easements for Guy Wires. Where existing above-ground utility easements or alleys are not themselves straight within each block, or if they do not connect on a straight course with the utility easements or alleys of adjoining blocks, then additional easements **shall** be provided for the placing of guy wires on lot division lines in order to support poles set on the curving or deviating easement lines or alley rights-of-way.

{Repeal ARTICLE VII. OPEN SPACES and replace with the following}

ARTICLE VII. PARKLAND DEDICATION AND IMPROVEMENT

SECTION 1. PARKLAND DEDICATION AND IMPROVEMENT REQUIREMENTS

A. Purpose

1. The purpose of this section is to provide for the adequate provision of parkland and open space to meet the needs of a growing City population; for improvements to existing parkland; for establishment, maintenance and operation of a Parkland Dedication & Improvement Fund; establish requirements and procedures for governing required dedications of parkland or improvements to existing parkland by subdividers of land; and for cash payments-in-lieu of land by subdividers of land in certain cases.
2. It is hereby declared by the City Council that recreational areas in the form of parks and open spaces are necessary and for the public welfare and that the only adequate procedure to provide for parkland and park improvements is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the City, whether such development consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land. It is the policy of the City to require subdividers of residential subdivisions and lots to provide for parkland and park facilities at the time of development approval in proportion to the need for such improvements created by the developments and in proportion to the benefits received from contribution of such facilities.

B. Applicability. The parkland dedication and park development requirements of this section shall be applicable to every residential and multifamily subdivision developed under the provisions of this ordinance, whether such subdivision consists of new residential construction on vacant land or the addition of new dwelling units on existing residential land, within the City limits.

C. Parkland design requirements

1. Usable land. At least fifty percent (50%) of proposed parkland dedication site **shall** be level, well drained and suitable for open play. Such land **shall** be located outside of any one hundred (100) year floodplain or any other special flood zone identified on the most recently approved FEMA FIRM map and **shall** not exceed five percent (5%) slope.
2. Access. Access to parkland designated on a subdivision plat **shall** be provided by the dedication of at least 150 feet of street frontage in a manner satisfactory to the City, preferably at the corner of two (2) intersecting streets. When the land abutting the designated parkland is developed, the subdivider of such abutting land **shall** furnish and pay for all paving of all abutting street frontage.
3. Utilities. Water and wastewater connections **shall** be readily available at the park site with water and wastewater lines located along the street frontage. The applicant must demonstrate to the satisfaction of the City that sufficient utilities are available to serve the park.
4. Drainage improvements. Any detention ponds and/or other drainage facilities to be constructed in areas that are to be dedicated as parkland must be designed and constructed to also allow for recreational use. The subdivider **may** be required to demonstrate that the design, placement and construction of such ponds meet the requirements of the City.
5. Floodplain. Every acre of proposed dedicated parkland located within the floodplain or other special flood hazard area **shall** count as one-half (½) acre of land towards the total parkland dedication requirement.

D. Dedication and improvement

1. Land dedication. The subdivider of a residential (including multifamily) subdivision **shall** dedicate to the City developed improved parkland in the amount as established within the fee schedule adopted by the City Council. Parkland **shall** be shown on the final plat establishing a residential (including multifamily) subdivision and **shall** contain the dedication of an area of land for park purposes meeting the requirements set out in this section.
2. Development of areas smaller than one and one half (1 ½) acres. The development of park areas smaller than one and one half (1 ½) acres for public park purposes is deemed to be impractical. If fewer than one and one half (1 ½) acres are proposed to be created by a plat, then prior to filing the plat, the subdivider **shall** be required to pay to the City the applicable cash payment-in-lieu of land. An exception **will** be made if the dedication **will** increase the size of an existing park adjacent to the proposed plat or provide a trail location and/or connection.
3. Improvements. A subdivider dedicating parkland **shall** improve the public parkland with improvements approved by the City Administrator. The minimum value for the improvements should be roughly proportionate to the amount the subdivider would be required to pay as fee-in-lieu for parkland development if they were not dedicating land. Design, specification, and construction of the improvements **shall** be subject to review and approval by the City. No final plat **shall** be recorded for any subdivision in which completion of the required improvements has not been accepted by the City unless a parkland improvement agreement has been approved and executed with an adequate financial surety provided.

E. Fee-in-lieu

1. Right to request waiver of dedication requirements. A subdivider obligated to make a dedication of land **may** request the City waive the required dedication of land, in whole or in part, and to accept a cash payment-in-lieu of land dedication. Any request for a waiver to the land

dedication requirements **shall** be subject to review and approval by the City Administrator. The City Administrator **may**, for any reason, elect to present the waiver request for approval to the City Council.

2. Required fee-in-lieu of land dedication and improvements. Any subdivider who is required to make a cash payment-in-lieu of land dedication and improvements or who is granted a waiver in accordance with this ordinance, **shall** make a cash payment-in-lieu of land and improvements in accordance with this section. The amount of such cash payment-in-lieu of land **shall** be calculated by multiplying the number of dwelling units proposed to be established by the plat times the amount per dwelling unit as established in the fee schedule set from time to time by the City Council. A cash payment-in-lieu of land and improvements **shall** be made prior to the recordation of the final plat for single family residential uses and prior to the issuance of a building permit for multifamily developments.
3. Additional dwelling units. The addition of new dwelling units increasing the total number of dwelling units on existing residential land (including multifamily) **shall** be required to pay a fee-in-lieu for parkland dedication and improvement.

F. Parkland Dedication & Improvement Fund.

1. The City **shall** reserve all fee-in-lieu of payments and any accrued interest from the fee-in-lieu of parkland dedication or fee-in-lieu of parkland improvement in a separate account from the general funds of the City. This fund **shall** be known as the Parkland Dedication & Improvement Fund.
2. The City **shall** deposit sums collected as cash payments-in-lieu of land and cash payments-in-lieu of improvements in the Parkland Dedication & Improvement Fund. The City **shall** expend such funds collected for the acquisition of land or for the improvement of existing parks on a first in, first out basis.
3. The City **shall** maintain records detailing the receipts and expenditures for the Parkland Dedication Fund. All funds deposited as credit for fee-in-lieu of parkland dedication or improvement **shall** be utilized for the acquisition of new parkland and/or the development of new or existing parkland within the City.

G. Parkland dedication procedure

1. Dedication procedures. The owner of property for a residential subdivision **shall** be required at final plat approval to dedicate parkland. Dedication of parkland **shall** be evidenced by a formal dedication on the plat to be recorded. The land so dedicated and conveyed **shall** not be subject to any reservations of record, encumbrances of any kind, or easements, which in the opinion of the City **will** interfere with or materially increase the cost of making such land available for parks or recreational purposes.
2. Right to accept/reject land. If the City determines that sufficient park area is already in the public domain within proximity of the proposed development, or if the recreation needs for the area would be better served by expanding or improving existing parks, the City has the right to accept the dedication or to refuse same and require a cash payment-in-lieu of land and improvements.
3. Development of Subdivision in Phases. If a subdivision is to be developed in phases and the final platting of the park area to be dedicated is to be included in a future phase, then the subdivider

shall be required to enter into a Parkland Improvement Agreement and provide sufficient security for the land and improvements.

- H. Parkland Improvement Agreement. The property owner or applicant may request to defer the obligation to dedicate parklands and/or develop parklands until after a final plat recordation. The request shall be submitted in writing and specify what is requested for deferral. Deferral of the obligation to dedicate parkland and/or develop parklands shall be conditioned on execution of a Parkland Improvement Agreement and provision of sufficient security. The City Administrator may approve or deny the request to defer obligations to dedicate parkland dedication and/or develop parklands. An Agreement may be required for phased subdivisions where the parkland dedication is placed in a future phase.

{Repeal ARTICLE VIII. FINANCIAL GURANTEES and replace as RESERVED}

ARTICLE VIII. RESERVED

{Repeal ARTICLE IX. PUBLIC IMPROVEMENTS ACCEPTANCE REQUIREMENTS and replace as RESERVED}

ARTICLE IX. RESERVED

{Repeal ARTICLE X. PERMITS AND UTILITY CONNECTIONS and replace as RESERVED}

ARTICLE X. RESERVED

{Repeal ARTICLE XI. VACATING PLATS AND PLANS, REPLATS AND AMENDING PLATS AND PLANS and replace as RESERVED}

ARTICLE XI. RESERVED

{Repeal ARTICLE XII. VARIANCES and replace as RESERVED}

ARTICLE XII. RESERVED

{Amend ARTICLE XIII. FEES, ENFORCEMENT AND IMPLEMENTATION for consistency}

ARTICLE XIII. FEES, ENFORCEMENT AND IMPLEMENTATION

SECTION 1. APPLICATION AND REVIEW FEES

- A. Upon each application the Applicant shall remit to the City such applicable application and review fees. The applicable fees shall be in the amount as established by the City and set forth in the City's Fee Schedule. The cost incurred by the City to retain consultants to assist City Staff in the review process of each Plat or Plan application shall be charged to the applicant for the actual cost of said consultants' services as professional review fees. Application and review fees are not refundable regardless of whether the Plat or Plan submitted is approved, approved with conditions or denied.

- B. City Consultant Fees. All fees for City contract professional services such as engineering, legal, planning and any other professional services needed to review or consult upon any development application or pre-application conference, as deemed necessary by the City Administrator, **shall be passed through to each applicant respectively for each application upon which such consultant's services are provided.** Such accrued consulting fees **shall be paid to the City upon receipt of invoice from the City.** Failure to pay accrued and invoiced consulting fees **shall prevent an application from being advanced to the next step in the processing of applications, to include, but not limited to, a disapproval or conditional approval of an application or recordation of a plat pending payment of accrued consulting fees.**

SECTION 2. DEVELOPMENT AND IMPACT FEES

The City may establish certain development and impact fees as set forth in the City's Fee Schedule. Development and impact fees shall be assessed and due at the time of final plat or plan application. The applicant is encouraged to escrow the estimated development and impact fees at the time of application, and such shall be refundable upon the applicants withdraw of the application.

A. ——— Roadway Impact Fee.

Upon Final Plat or Plan approval, the applicant shall render to the City a Roadway Impact fee, in the amount as established by the City's fee schedule, for each lot created in the Final Plat or Plan according to each proposed use. Such Roadway Impact fee is in addition to, and may not be considered in lieu of, any off-site improvements as determined by the City Engineer or traffic mitigation requirements as determined by a TIA.

B. ——— Parkland Fee.

Upon Final Plat or Plan approval, the applicant shall render to the City a parkland fee, in the amount as established by the City's fee schedule, for each lot created in the Final Plat or Plan according to each proposed use. However, any City approved improvement value added to open space provided for in the Plat or Plan shall be credited towards the parkland fee. Improvements may include, but are not limited to, playscapes, benches, trash receptacles, sports courts, and graded and landscaped trails systems.

SECTION 32. ENFORCEMENT

A. Enforcement of Regulations.

1. The subdivision of 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 evading these regulations by creating a lot, **shall** be considered a violation of this Ordinance. All such subdivisions or development of land **shall** be subject to all the requirements contained in this Ordinance. No permit **shall** be issued or utility connection authorized for a lot developed, subdivided or sold in violation of the provisions of this Ordinance. Appropriate actions **may** be taken to prevent a violation of this Ordinance; to prevent unlawful subdivisions and developments; to restrain, correct, or abate a violation; or to prevent an anticipated violation. Any remedies or enforcement actions stated herein **shall** not be exclusive or prevent the City from taking any available lawful action or relief, in law or in equity, to accomplish compliance with this Ordinance.

B. Stop Work Order

1. The City **shall** issue a Stop Work Order on any development, improvements of land or construction therein that is in violation of this Ordinance. Stop work orders **shall** be effective immediately and any person thereafter **shall** cease and desist from further development or construction related to the alleged violation until such violation is corrected and a certificate of compliance or waiver is issued by the City. Work to stabilize and secure the site, or parcel of land **may** be performed while the Order is in effect.

C. Certificate of Non-compliance

1. If any subdivision or development of land exists for which a final plat ~~or plan~~ has not been approved or for which the standards contained or referred to herein have not been complied with in full, the City Council **shall** pass a resolution reciting the fact of such noncompliance or failure to secure final plat ~~or plan~~ approval, and reciting the fact that all the provisions of this Ordinance **will** apply to the lots in the subdivision or development and that no building permit **may** be issued nor any utility connection be approved until final plat ~~or plan~~ approval is secured for the subdivision or development and the City has made final acceptance of all improvements therein. The City Secretary **shall** cause a certified copy of such resolution under the corporate seal of the City with signature of the Mayor to be filed in the deed records of the applicable County or Counties in which the subdivision or development is located. If final plat ~~or plan~~ approval and full compliance are secured after the filing of such a resolution, the City Secretary **shall** forthwith file an instrument in the deed records of ~~Guadalupe~~ the applicable County or Counties stating that such final plat ~~or plan~~ approval has been secured and the City has made final acceptance of the improvements therein.

D. Civil Legal Action

1. The City Attorney **shall**, when directed by the City Council or City Administrator, institute appropriate legal action in a Court of competent jurisdiction to enforce the provisions of this Ordinance or the standards referred to in this Ordinance 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 part of the provisions of this Ordinance.

E. Criminal Penalty-Violations and Penalties

1. ~~Any person, corporation or agency violating any provision of this Ordinance shall be guilty of a misdemeanor, and, upon conviction shall be fined an amount not to exceed five hundred dollars (\$500.00). Each day that such a violation continues shall be a separate offence. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this Ordinance. Any person, firm, or corporation who shall violate any of the provisions of this ordinance, or fails to comply therewith, or who shall violate or fail to comply with any order or regulation made hereunder, or who shall build any project or facility in violation of any detailed statement of specification or plans submitted and approved hereunder, or any certificate or permit issued hereunder, shall, for each and every violation and noncompliance respectively be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed two thousand dollars (\$2,000) or the appropriate legal maximum as determined by statute. Each and every day that such violation and/or noncompliance shall exist shall be deemed a separate offence. In case any person, firm, or corporation violates any of the provisions of this ordinance or fails to comply therewith, the City, in addition to imposing the penalties above provided may institute any appropriate action or proceedings in court to prevent, restrain, correct, or abate or to prevent any illegal act, conduct, business, or use in or~~

about any land, and the definition of any violation of the terms of this ordinance as a misdemeanor, shall not preclude the City from invoking the civil remedies given it by law in such cases, but same shall be cumulative of and in addition to the penalties prescribed for such violation.

SECTION 3. VALIDITY

- A. The issuance or granting in error of a permit or approval of plans or plats, site designs, or specifications shall not be construed to be a permit for, or an approval of, a violation of any provision of this ordinance or any other City ordinance.

SECTION 4. IMPLEMENTATION

- ~~A. Severability. If for any reason any one or more sections, sentences, clauses or parts of this ordinance are held invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this ordinance, but it shall be confined in its operation to the specific sections, sentences, clauses or parts of this ordinance held invalid, the invalidity of any section, sentence, clause or part of this ordinance in one or more instances shall not affect or prejudice in any way the validity of this ordinance in other instances.~~
- ~~B. Effect of Other Ordinances and Regulations. Wherever higher or more restrictive standards are established by the provisions of any other applicable state or federal statute, or city ordinance, regulation or adopted international code than are established by the provisions of this ordinance, the provisions of such other statute, ordinance or regulation, where not in conflict, shall control.~~
- ~~C. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict. Ordinance 219 is repealed in its entirety and hereby replaced by this Ordinance.~~
- ~~D. Savings Clause. This Ordinance shall remain in full force and effect until repealed, save and except as amended.~~
- ~~E. Hearing. A public hearings for this Ordinance and the regulations herein were held on the 6th day of May, 2020 and the 13th day of May, 2020.~~
- ~~F. Meeting Open to Public. It is hereby found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that the public notice of the time, place and purpose of said meeting was given as required.~~
- ~~G. Effective Date. This ordinance shall be effective immediately following its publication in the manner required by the Texas Local Government Code. Thereafter, the requirements contained herein shall apply within the City of Umland, Texas and the Extraterritorial Jurisdiction of the City of Umland, Texas as applicable.~~