



**AGENDA ITEM REQUEST FORM
CITY OF JOHNSON CITY, TEXAS
CITY COUNCIL**

ITEM NO. 17

MEETING DATE: **January 4, 2022**

AGENDA PLACEMENT:

- Ceremonial
- Consent
- Individual
- Closed Session

CAPTION:

Discussion of and action on the following:

- a. an Ordinance of the City Council of the City of Johnson City, Texas repealing and replacing Municipal Code of Ordinances Chapter 10 *Subdivision Regulation*; and providing for an effective date. (Staff)
- b. an Ordinance of the City Council of the City of Johnson City, Texas amending Municipal Code of Ordinances Chapter 10 *Subdivision Regulation* by adding Article 10.03 *Tree and Landscape Regulations*; and providing for an effective date. (Staff)
- c. an Ordinance of the City Council of the City of Johnson City, Texas amending Municipal Code of Ordinances Chapter 10 *Subdivision Regulation* by adding Article 10.04 *Stormwater Detention and Drainage*; and providing for an effective date. (Staff)
- d. an Ordinance of the City Council of the City of Johnson City, Texas amending Municipal Code of Ordinances Chapter 10 *Subdivision Regulation* by adding Article 10.05 *Parkland Dedication*; and providing for an effective date. (Staff)

STRATEGIC WORK PLAN:

- | | |
|---|--|
| <input type="checkbox"/> Not Applicable | <input type="checkbox"/> Goal 5: Improve Fire Safety |
| <input type="checkbox"/> Goal 1: Increase Housing Diversity | <input checked="" type="checkbox"/> Goal 6: Improve Streets |
| <input type="checkbox"/> Goal 2: Expand Quality Lodging | <input type="checkbox"/> Goal 7: Increase Publicity &
Promotion of the Community |
| <input checked="" type="checkbox"/> Goal 3: Improve Code Enforcement | <input type="checkbox"/> Goal 8: Increase Economic
Development Activities |
| <input checked="" type="checkbox"/> Goal 4: Improve Streetscaping &
Signage | |

EXECUTIVE SUMMARY:

City Staff, the City Attorney, and the Planning and Zoning Commission have worked on revisions to the City's Subdivision Code, including the addition of tree and landscape, stormwater detention and drainage, and parkland dedication provisions, for several months. On December 14, 2021, the Planning and Zoning Commission unanimously recommended approval of the aforementioned ordinances.

Pursuant to the Municipal Code of Ordinances and State Law, both the Planning and Zoning Commission and City Council held Public Hearings on the Code revisions. Public Hearing notices were:

1. Posted on the City Hall Bulletin Board;
2. Advertised in the Johnson City Record Courier on November 3 and 17, 2021;
3. Mailed to all Johnson City property owners; and
4. Posted on the City's homepage.

The proposed ordinances accomplish the following:

1. Provides that a plat is required for any subdivision of land intended for development purposes within the City limits and ETJ.
2. Platting would not be required for an existing tract of land with a legal deed of record filed on or before January 1, 1999. Consequently, a building permit could generally be issued to most lots within the City without the additional need to plat the property.
3. Creates a Uniform Submittal Schedule for plat processing.
4. Requires a Master Plan process for developments with over 100 planned lots.
5. References the City's current Design Manual and other ordinances that regulate subdivision development.
6. Adds Major Thoroughfare Plan, Traffic Impact Analysis, and State-maintained right of way dedication provisions.
7. Creates stormwater detention and drainage regulations:
 - a. Water runoff for new development and redevelopment shall be less than or equal to the site's pre-development conditions.
 - b. Fee-in-lieu of detention.
 - c. Single family lots exempted from provisions.
8. Creates tree and landscape regulations:
 - a. Intended for commercial and single-family residential development.
 - b. Exempts most established single family residential lots.
 - c. Creates protections for large and small tree species.
 - d. Prohibits trimming Oak trees from February 1 – July 1, unless a person contracts with a licensed professional tree care company. All wounds must be painted.
 - e. Establishes permit requirements for removal of protected and heritage trees.
 - f. Establishes mitigation in replacements trees or fee-in-lieu of replacement.

- g. Establishes tree protection measures during construction.
- h. Requires parking lot shading and perimeter trees.
- i. Requires parking lot screening.
- j. Requires buffer zones between residential and commercial properties.
- k. Requires street trees.
- l. Requires irrigation systems.
- m. Requires landscaping maintenance.

9. Creates parkland dedication regulations:

- a. Applies to residential subdivision development with more than 5 dwelling units.
- b. 1 acre per 25 dwelling units or 5% of the overall acreage if less than 25 dwelling units.
- c. Fee-in-lieu of parkland dedication.

FINANCIAL: N/a

ATTACHMENTS: Proposed ordinances.

SUGGESTED ACTION:

Motion to approve all Ordinances, as presented.

PREPARED BY: City Staff

DATE SUBMITTED: 12/31/21

ORDINANCE NO. _____
CITY OF JOHNSON CITY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOHNSON CITY, TEXAS REPEALING AND REPLACING MUNICIPAL CODE OF ORDINANCES CHAPTER 10 *SUBDIVISION REGULATION*; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, Texas Local Government Code Chapter 212 authorizes the City of Johnson City to adopt rules governing plats and subdivisions of land within the City's jurisdiction after a Public Hearing; and

WHEREAS, on November 23, 2021, the City Planning and Zoning Commission held a Public Hearing on proposed revisions to Municipal Code of Ordinances Chapter 10 *Subdivision Regulations*, an Ordinance regulating the subdivision of land within the corporate City limits and extraterritorial jurisdiction (ETJ), including, but not limited to, stormwater, tree and landscaping, and parkland dedication regulations; and

WHEREAS, on December 7, 2021, in accordance with Texas Local Government Code Chapter 212, the City Council of the City held a Public Hearing on the same.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Johnson City:

ARTICLE I. FINDINGS OF FACT

The foregoing recitals are adopted as facts and are incorporated fully herein.

ARTICLE II. APPROVAL AND ENACTMENT

The City Council of the City of Johnson City hereby repeals and replaces, in its entirety, Chapter 10 *Subdivision Regulation* of the Municipal Code of Ordinances with "*Attachment A*", attached hereto and incorporated fully herein for all intents and purposes.

ARTICLE III. REPEALER AND SEVERABILITY

REPEALER: All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

SEVERABILITY: Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or

administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

ARTICLE IV. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage.

PASSED AND APPROVED this, the 4th day of January, 2022, by a vote of the City Council of Johnson City, Texas.

CITY OF JOHNSON CITY, TEXAS

Rhonda Stell, Mayor

Attest:

Whitney Walston, City Secretary



CITY OF JOHNSON CITY
SUBDIVISION ORDINANCE

ADOPTED _____

REVISED _____, 2021



**CITY OF JOHNSON CITY
SUBDIVISION ORDINANCE
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ARTICLE 1. GENERAL PROVISIONS

DIVISION 1-1. PLAT REQUIRED

Sec. 1.1 Adoption and Purpose

- (a) *Adoption.* The City Council of the City of Johnson City adopts the following regulations to control the subdivision of land within the corporate limits and extraterritorial jurisdiction (ETJ) of the City in order to promote the health, safety, and general welfare and development of the municipality, as authorized by Chapter 212 of the Texas Local Government Code and in accordance with the City's police powers and authority.
- (b) *Citation.* This ordinance shall be cited as the "Subdivision Ordinance of the City of Johnson City, Texas." References to "this Ordinance" or "the Ordinance" shall be interpreted as references to this Subdivision Ordinance.

Sec. 1.2 Jurisdiction

- (a) *City Limits.* The Ordinance shall apply within the incorporated limits of the City of Johnson City.
- (b) *ETJ.* The Ordinance shall apply within the boundaries of the City's ETJ, as amended. Pursuant to the Interlocal Agreement dated November 25, 2003 between the City and Blanco County, the City possesses exclusive jurisdiction to regulate all subdivisions and subdivision plats and approve all related permits in the City's ETJ, pursuant to Chapter 212 of the Texas Local Government Code. The approval of a plat for land within the ETJ does not constitute approval of land use. Properties annexed subsequent to platting are subject to the City's zoning authority.

Sec. 1.3 Plat Required

- (a) *Requirement.* The owner of a tract of land located within the City limits or in the ETJ of the City who divides the tract into two 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 the 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, submitted to, and approved by the City for conformance with the rules and regulations set forth in the Ordinance and other ordinances of the City Code of Ordinances.
- (b) *Conveyance.* An approved final plat or real property survey, including metes and bounds description(s), prepared by a registered land surveyor or licensed professional engineer shall be required to transfer, lease, sell, convey, or receive any part of a property, lot, or parcel.
- (c) *Recordation.* No subdivision plat shall be recorded until a final plat has been approved in accordance with this Ordinance.
- (d) *City Permit Approvals.* The City shall not issue City approvals, including, but not limited to, building, repair, plumbing, or electrical permits for any structure on a lot in a subdivision or on a parcel for which a final plat has not been approved and recorded in accordance with this Ordinance. The provisions of this Section shall not be construed to prohibit the issuance of permits for any lot or undivided tract or parcel of land upon which a commercial or residential structure exists that was in existence prior to the passage of this Ordinance.

- (e) *Water or Wastewater Services.* The City shall not sell nor supply water or wastewater services within a subdivision unless a Certificate of Plat Compliance has been issued for the property indicating that the property has been properly platted, if required, approved, and recorded in accordance with this Ordinance.
- (f) *Maintenance of Improvements.* The City shall not repair, maintain, install, or provide any public streets, utilities, or services in any subdivision for which a final plat has not been approved and recorded in accordance with this Ordinance.
- (g) *OSSF.* The City shall not approve a plat with an on-site sewage facility until the facility is approved by Blanco County in the proposed location indicated on the plat.

Sec. 1.4 Applicability

- (a) *Division of Land.* The Ordinance shall apply to the creation of a one legal lot from two or more lots, or to a division of a tract into two or more parts to lay out a subdivision of the tract, or to lay out streets, alleys, squares, parks, or other parts of the tract for dedication 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.
- (b) *Exemptions.*

(1) The Ordinance shall not apply to:

- (i) *Five Acres.* A division of land into parts greater than five (5) acres, where each part has access and no public improvement is being or will be dedicated;
- (ii) *Cemeteries.* Existing cemeteries complying with all State and local laws and regulations;
- (iii) *Condominium.* A condominium part of a condominium regime created in accordance with the Condominium Act, Texas Property Code Chapter 82;
- (iv) *Eminent Domain.* A lot or lots created or changed by an acquisition by an entity exercising eminent domain. A lot or property which becomes nonconforming due to condemnation by a governmental entity may be brought into conformance with the Ordinance. The Ordinance shall apply to subsequent subdivisions of the lot(s) changed by eminent domain; or
- (v) *Deed for Land Before 1999.* Land constituting a single tract, lot, site, or parcel for which a legal deed of record describing the boundary of said tract, lot, site, or parcel was filed of record in the deed records of Blanco County, Texas, on or before January 1, 1999, provided that such parcel or tract of land has not thereafter been subdivided into two or more parcels or tracts of land. This Ordinance shall apply to any resubdivision of any existing subdivision, lot, or lots after the effective date of this Ordinance.

(2) *Plat Certification.* If a parcel is excepted from the plat requirement, the CAO shall certify the parcel's exception, pursuant to the plat compliance certification process in Section .

Sec. 1.5 Superseding Regulations

- (a) *Previous Regulations Superseded.* Upon the adoption of these regulations according to law, all subdivision regulations of the City previously in effect are hereby superseded and shall

not apply, except as provided in Section [REDACTED].

- (b) *Pending Plats.* An application for plat approval, including a final plat, which is pending on the effective date of adoption of the Ordinance and which has not expired, shall be reviewed under the regulations in effect immediately preceding the effective date of adoption of the Ordinance.

Sec. 1.6 Interpretation; Conflict; Severability

- (a) *Interpretation.* The principles, standards, and requirements provided for in this Ordinance shall be minimum requirements for the platting and development of subdivisions for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- (b) *Conflict with Other Laws.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law, except as provided in this Ordinance. To the extent that this Ordinance promulgates standards or imposes restrictions or duties that differ from those imposed by other City ordinances, rules, or regulations, the regulations contained within this Ordinance shall supersede such other provisions to the extent of any conflict or inconsistency.
- (c) *Private Provisions.* The regulations contained herein are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or contain higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with these regulations, then such private provisions shall be operative and a supplement to these regulations.
- (d) *Severability.* If any part or provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application that is judged to be invalid.

DIVISION 1-2. VIOLATION; ENFORCEMENT

Sec. 1.7 Violation

- (a) *Violation Declared.* It shall be unlawful for any person to violate any term or provision of the Subdivision Ordinance. The City shall have the power to administer and enforce the provisions of this Ordinance.
- (b) *Misrepresentation of Facts.* It shall be a violation of this Ordinance for any person to knowingly or willfully misrepresent or fail to include any information required by this Ordinance in any plat application or during any public hearing or meeting of the Planning and Zoning Commission (P&Z), City Council, or with the Chief Administrative Officer (CAO). Such a violation shall constitute grounds for denial of the plat.

Sec. 1.8 Right of Entry

The CAO or designee shall have the authority to enter upon the property of an applicant within the City or its ETJ for the purpose of enforcing the provisions of this Ordinance.

Sec. 1.9 Enforcement

(a) *Criminal Offense.*

- (1) A person who violates a provision of this Ordinance commits a misdemeanor.
- (2) A fine for a violation may not exceed \$2,000.
- (3) Each day of the violation shall constitute a separate offense.
- (4) The penalties in this Section shall be cumulative and are not exclusive of any other rights or remedies the City may have or pursue.

(b) *Civil Action.*

- (1) Any condition caused or permitted to exist in violation of any provision of this Ordinance, which provision is intended for the protection of the public health, safety or general welfare, constitutes a public nuisance.
- (2) A person who violates a provision of this Ordinance is subject to a civil suit for injunctive relief.
- (3) The City may file suit in district court to enjoin the violation or threatened violation of the Ordinance by a person.
- (4) Prior to taking civil action, the City shall notify the applicant-defendant of the provisions of the Ordinance that are being or have been violated. Upon initiation of the civil action, the City shall demonstrate that the defendant was actually notified of the provisions of the Code, and, that after receiving notice, the defendant committed acts in violation of the Code or failed to take action necessary for compliance with the Code.
- (5) The City may seek to recover damages from the violator in an amount adequate for the City to undertake activity necessary to bring the violator in compliance with the Ordinance.
- (6) A person who violates a provision of this Ordinance is subject to a civil penalty up to one thousand dollars (\$1,000) and not less than one hundred dollars (\$100.00) per day and per violation upon a showing that the person was notified of the provisions of the Ordinance, and, after receiving notice, the person committed acts in violation of the Ordinance or failed to comply with the Ordinance.
- (7) The remedies in this section shall be in addition to the penalties described above.

(c) *Enforcement in ETJ.*

- (1) A criminal fine or civil penalty does not apply to a violation in the ETJ.
- (2) As provided by Section 212.003(c) of the Texas Local Government Code, as amended, the City is entitled to seek injunctive relief in district court to enjoin a violation of the Ordinance in the ETJ.

(d) *Administrative Enforcement.*

- (1) The City shall not issue a building or repair permit for any structure on a lot in a subdivision for which a plat is not in compliance with this Ordinance, as described in Sections [REDACTED] and [REDACTED].
- (2) The CAO or designee may issue a Stop Work Order to immediately halt work on a property that is in violation of this Ordinance. An applicant may appeal an order to the City Council who shall issue a decision without unreasonable or unnecessary delay. The decision of the City Council shall be final, but may be adjudicated in court as provided by law.
- (3) In accordance with Sections [REDACTED] and [REDACTED], public utility service shall not be provided or connected to property in a subdivision for which a plat is not in compliance with this Ordinance, as authorized by Section 212.012 of the Texas Local Government Code, as amended. All public utilities are prohibited from providing utility service to property that does not meet the requirements of this Section.
- (4) The City may withhold from a property all City services of whatsoever nature, including the maintenance of streets and the furnishing of all other City services, until all improvements are properly constructed in accordance with a final plat, approved engineering plans, and the City's Design Standards, and said improvements have been accepted by the City Council in accordance with this Ordinance.
- (5) A plat of a subdivision not in compliance with this Ordinance and without the endorsement and approval of the City shall not be approved for recordation.

€ *Legal Fees and Costs.* In any civil or criminal action, the City shall be entitled to recover from the defendant reasonable attorney's fees, costs of suit, and any other costs of enforcement.

ARTICLE 2. PLAT PROCEDURES

DIVISION 2-1. AUTHORITY AND APPROVAL

Sec. 2.1 Authority for Plat Review

- (a) *Within City Limits.* The City of Johnson City shall be the primary platting review authority within the City limits of Johnson City.
- (b) *Within ETJ.* The City of Johnson City shall be the primary platting review authority in the City's ETJ, pursuant to the Interlocal Agreement dated November 25, 2003 between the City and Blanco County.

Sec. 2.2 Standards for Approval

A plat shall be approved if it:

- (1) Conforms to the City's Comprehensive Land Use Plan, as amended;
- (2) Conforms to the requirements and regulations of this Ordinance;
- (3) Conforms to the City's Design Standards for construction of improvements; and
- (4) All required fees and fiscal security, where required, have been paid.

Sec. 2.3 Municipal Authorities for Approval

(a) *Planning and Zoning Commission ("P&Z").*

- (1) The P&Z shall be an advisory body and adjunct to the City Council, and it shall have the authority to review and make recommendations to the City Council on a:
 - (i) Preliminary plat; and
 - (ii) Final plat not administratively approved.
- (2) The P&Z shall review each plat application in accordance with the review process of this Ordinance.
- (3) P&Z recommendations shall be forwarded to the City Council for action. The P&Z shall take no final action on any subdivision application.
- (4) Whenever the City Council and the P&Z are required by State law to conduct public hearings in matters pertaining to planning, zoning, or the subdivision of property, and at other times when it is in the best interest of the City to do so, the City Council and the P&Z are hereby authorized, after published notice as required by law, to hold joint meetings and to conduct joint public hearings.

(b) *City Council.*

- (1) The City Council shall be the final authority to take action on a:
 - (i) Preliminary plat;
 - (ii) Final plat not administratively approved by the CAO; and
 - (iii) Any other plat referred to it by the CAO or the P&Z.

(2) The City Council shall review a plat application in accordance with the review process of this Ordinance.

(c) *Administrative Approval by CAO for Certain Plats.*

(1) The City Council grants the CAO the authority to administratively review and take final action on a plat application for the following plats of four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of City facilities:

- (i) An amending plat;
- (ii) A minor plat of four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of City facilities; or
- (iii) A replat under Section 212.0145 of the Local Government Code of four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of City facilities.

(2) The CAO may approve, or approve subject to conditions, a plat application within thirty (30) days after the date the plat is deemed administratively complete. A plat is deemed approved by operation of law unless it is disapproved within that period.

(3) The CAO shall not disapprove a plat application, but, instead, shall refer the plat to the City Council within the 30-day time period for final action, in accordance with the approval process of the Ordinance.

(4) Public notice and a public hearing are not required for a plat administratively approved by the CAO.

(5) Upon approval by the CAO or City Council, where applicable, the plat shall be filed at the Blanco County Clerk's Office in the same manner as for a final plat as prescribed in this Ordinance.

Sec. 2.4 Expiration of Plat Approval

(a) *Two Years for Plat.* Approval of a plat application expires two years after the application is approved if no progress has been made towards completion of the subdivision project. To renew an expired plat, an applicant must resubmit a new plat application accompanied by the payment of required fees.

(b) *Five Years for Project.* Approval of a subdivision project expires five years after the first application in the project was filed if no progress has been made towards completion of the subdivision project.

(c) *Project Progress.* Progress towards completion of a project includes any one of the following:

(1) An application for a final plat is submitted to the City within the allowed time frames;

(2) A good-faith attempt is made to file with the City an application for a permit necessary to begin or continue completion of the project;

(3) Costs have been incurred for developing the project, including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount

- of five percent of the most recent appraised market value of the real property on which the project is located;
- (4) Fiscal security is posted; or
 - (5) Utility connection fees or impact fees for the project have been paid.

- (d) *Prior Plats.* Any project or plat application approved prior to the adoption date of this Ordinance that does not have a deemed expiration date and for which no progress has been made toward completion of the project as of the adoption date is hereby deemed to have an expiration date of five years after the date of adoption of this Ordinance.

Sec. 2.5 Certificate on Plat Compliance

- (a) *Certificate Issuance.* On approval of a plat application by the City, the CAO is authorized to issue to the applicant a Certificate of Plat Compliance stating that the plat has been reviewed and approved by the City.
- (b) *Request for Certificate.* For a determination of whether a plat is required, as provided in Section 212.0115 of the Texas Local Government Code, as amended:
 - (1) A property owner, purchaser of real property, utility entity, or the City may submit a written request for a determination of:
 - (i) Whether a plat is required for the property; and
 - (ii) If a plat is required, whether it has been prepared, reviewed, and approved by the City.
 - (2) The CAO is authorized to act on the request and issue a certificate of response within 20 days after receipt of the request.
 - (3) If it is determined that a plat is not required, a certificate shall issue which shall grant the tract of land legal lot status.

DIVISION 2-2. PLAT APPLICATION REQUIREMENTS

Sec. 2.6 Plat Compliance

- (a) *Compliance.* A plat application shall demonstrate compliance with the City's Comprehensive Land Use Plan, as amended, Design Standards, this Subdivision Ordinance, and all other zoning, water, sewer, flooding and storm drainage, parks and open space, transportation, and landscaping regulations, and, if applicable, an approved development agreement.
- (b) *Conflict.* Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rules, regulations, or ordinances, the requirement that is most restrictive or that imposes higher standards will apply.
- (c) *Preparation of Plat.* A plat shall be prepared by a licensed civil engineer or a registered professional land surveyor.

Sec. 2.7 Fee Authorized

The City is authorized to assess and collect fees for review and associated costs, including

engineering fees, of a plat application submitted pursuant to this Ordinance. Fees shall be established by City Council in the Master Fee Schedule and are nonrefundable.

Sec. 2.8 Plat Application Packet Requirements

(a) *Application Information.* The following information is required to be submitted with each plat application:

- (1) Proof of land ownership by written verification, such as a notarized statement, deed, title policy, or a power of attorney, that the applicant is the owner of record of the subject land parcel;
- (2) An original, notarized signature(s) of the property owner(s) of the subject property;
- (3) Payment in full of the City's nonrefundable application fee(s);
- (4) Proof of lack of indebtedness on property with:
 - (i) A certificate or other satisfactory evidence from the Blanco County Appraisal District showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property; and
 - (ii) Documentation showing no delinquent assessments, fees, or other debts or obligations to the City which are directly attributable to the subject property; and

(b) *Plat Information.* The plat application shall be submitted on a form provided by the City and shall contain the following information:

- (1) A plat drawing designed by an engineer or surveyor in the format and containing the content outlined in this Ordinance;
- (2) Copy of a development agreement pertaining to the subject property, if applicable;
- (3) Copy of soil test, if applicable;
- (4) A preliminary drainage study, if applicable;
- (5) If any amount of surface water is to be used by the subject property, all necessary authorizations from applicable regulatory agencies;
- (6) If any amount of groundwater is to be used by the subject property, documentation establishing that the appropriate governmental entities have been notified of the project;
- (7) If the project impacts the Federal Emergency Management Agency (FEMA) regulatory floodplain, documentation demonstrating compliance with the City's Flood Damage Prevention Ordinance, as amended;
- (8) Record of approved variance for the project or that an application for a variance is being submitted;
- (9) Copy of required permits, if applicable (*e.g.*, driveway permit, Texas Commission on Environmental Quality (TCEQ) permit, utility provider permit, etc.);
- (10) A traffic impact analysis, if required;
- (11) A summary narrative describing:
 - (i) How the application meets all requirements of City codes, including, but not limited to, landscaping, lighting, parkland dedication, water quality protection, or zoning, as may be relevant;
 - (ii) The overall nature and scope of the proposed development, including zoning (if applicable);

- (iii) Existing zoning of the subject property and all adjacent properties if within the City limits;
 - (iv) The proposed use(s) and acreage of each proposed use (if applicable);
 - (v) Minimum lot or unit sizes, widths and depths, and number of lots or units to be created;
 - (vi) Special amenities or facilities included in the development;
 - (vii) How the property will be served with required utilities and services;
 - (viii) How stormwater drainage will be handled; and
 - (ix) An itemization and description of any variances from provisions of the Ordinance.
- (12) If the proposed development will have access points onto a major thoroughfare, a letter from the appropriate entity, such as the Texas Department of Transportation (TxDOT) or Blanco County, acknowledging and approving proposed driveway locations, median openings, and left or right turn lanes;
 - (13) Letters of certification from each of the applicable utility service providers, including, but not limited to, the City, natural gas, electricity, and telecommunications / cable providers, verifying their ability and willingness to provide an adequate level of service for the proposed development;
 - (14) 911 addressing, as applicable;
 - (15) Name of the subdivision, which must not duplicate or be similar to an existing subdivision name;
 - (16) Digital copies of all submittal items;
 - (17) One 11" x 17" black-and-white reduction of the plat;
 - (18) The property- and/or homeowners' association (HOA) deed restrictions and agreements, if applicable; and
 - (19) Any other reasonable and applicable information and materials deemed appropriate by the City Engineer or CAO.

(c) *Plat Drawing.*

- (1) **Format.** All plat drawings and other corresponding plans and drawings shall be on sheets equal to 24" by 36" in size and be drawn to an engineering scale of not smaller than one hundred feet to the inch (1" = 100'). In cases of larger developments which would exceed the dimensions of the sheet at one-hundred-foot (100') scale, plats may be on multiple sheets or to another engineering scale, as approved by the CAO, and in a format acceptable to the Blanco County Clerk's Office.
- (2) **Content.** The plat drawing shall contain the following information:
 - (i) Boundary lines, abstract/survey lines, corporate and other jurisdictional boundaries, including City limit and ETJ lines, existing or proposed highways and streets (including right-of-way widths), bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments;
 - (ii) The length and bearing of all straight lines, radii, arc lengths, tangent lengths, and central angles of all curves shall be indicated along the lines of each lot or unit (curve and line data may be placed in a table format);
 - (iii) Accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;

- (iv) The area, in acres, of the subdivision;
- (v) The name and location of a portion of all adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision. The drawing shall be in sufficient detail to show the existing streets and alleys and other features that may influence the layout and development of the proposed subdivisions. Where adjacent land is not subdivided, the owner's name of the adjacent tract shall be shown with the most recently recorded volume and page number from the appropriate County deed records;
- (vi) The angle of intersection of the centerlines of all intersecting streets;
- (vii) The location, dimension, and name of all proposed streets, cul-de-sacs, alleys, easements and ways, and all known rights-of-way and/or easements within or affecting the area to be subdivided. Any easement shall clearly indicate to whom it is dedicated for ownership, operation, and maintenance purposes.
- (viii) All proposed blocks, lots, and zoning setback lines, with principal dimensions;
- (ix) A preliminary lot and block analysis indicating, at a minimum, that the square footage or acreage of each proposed lot meets the minimum applicable zoning standards, and the maximum number of lots in the proposed development is not exceeded;
- (x) Scale (including a graphic scale), date, north arrow, and other pertinent informational data;
- (xi) Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to sea level datum;
- (xii) The limits of any portion of the 100-year floodplain that may be within or adjacent to (*i.e.*, within 100 feet of) the property. Final monumentation of the floodplain shall occur and shall be shown on the final plat prior to approval and filing at the County. If no floodplain is present, then a note stating this shall be shown on the plat;
- (xiii) A title block within the plat that shows the title or name under which the proposed subdivision is to be recorded; the name, address, and phone number of the property owner(s); the name, address, and phone number of the licensed engineer or registered professional land surveyor who prepared the plat/plans; the scale of the plat/plans; the date the plat/plan was prepared; and the location of the property according to the abstract or survey records of Blanco County, Texas. The subdivision name shall not duplicate (or phonetically replicate) the name of any other platted subdivision in the City, its ETJ, or other surrounding communities in Blanco County; however, phasing identification is allowed to be similar to previous phases of that particular development;
- (xiv) Sites, if any, to be reserved or dedicated for parks, playgrounds, trails, pedestrian access easements, or other public uses. Any parks, trails, or pedestrian access easements shall be indicated by a legal description (*i.e.*, a lot and block designation) and shall clearly indicate to whom they are dedicated for ownership, operating, and maintenance purposes;
- (xv) If applicable, preliminary water and sanitary sewer plans, including a preliminary layout of sanitary sewer and water lines to serve the subdivision, as well as connections or off-site extensions to existing City systems. The water utility plan shall include, but not be limited to, existing/proposed water lines, pipe sizes, valves, lot service lines, easements, fire hydrants, and related appurtenances. The sanitary sewer plan shall include, but not be limited to, existing/proposed gravity lines, pipe

- sizes, direction of flow, service laterals, manholes, cleanouts, lift stations, force mains, easements, and related appurtenances. Both water and sanitary sewer layouts may be shown on the same drawing;
- (xvi) If applicable, a preliminary drainage plan showing contours, acreages, runoff, existing/proposed storm drain lines, pipe sizes, direction of flow, inlet locations, headwalls, points of discharge, detention/retention features, channels, creekways, 100-year floodplain limits, and connections to any existing systems. Locations proposed for drainage discharge from the site shall be shown by directional arrows;
 - (xvii) If applicable, all physical features of the property, including:
 - (A) the location and size of all watercourses;
 - (B) 100-year floodplain, according to FEMA information;
 - (C) U.S. Army Corps of Engineers flowage easement requirements;
 - (D) All critical environmental features (CEFs), such as karsts, springs, sinkholes, caves, etc., to be located and documentation signed and certified by a geologist. All CEFs to have a minimum setback of 150'. All designated wetlands to be certified as such by an accredited wetland biologist relying on the presence of wetlands plant species. A slope map identifying the breakdown of all lands in categories from 0% to 15 slope, 15 to 30 slope, and over 30 slope;
 - (E) Ravines;
 - (F) Bridges;
 - (G) Culverts;
 - (H) Drainage area in acres or area draining into subdivisions; and
 - (J) Outline of major wooded areas, the location of major or important individual trees, or other wooded features related to tree preservation.
 - (xviii) A designation of the proposed uses of land within the subdivision;
 - (xix) A vicinity map on a smaller scale showing the proposed subdivision and its relationship to the surrounding area;
 - (xx) Certificates and other language as follows:
 - (A) A statement signed by the property owner(s) and acknowledged before a Notary Public that the subdivided area is legally owned by the applicant;
 - (B) An accurate description by bearings and distances (including necessary curve and line data), accurate to the nearest one hundredth of a foot, for all boundary, block, and lot lines, with descriptions correlated to a permanent survey monument;
 - (C) The registered professional land surveyor's certificate, with a place for his or her signature and notarization of his or her signature; and
 - (D) Places for the plat approval signature and dates of the Mayor, a majority of the City Council, or the CAO, as applicable, and for the City Secretary to attest such signature(s).
 - (E) The Appendices to this Ordinance contain certificates and language to be used on the plat to accommodate the above requirements.
 - (xxi) Any other reasonable and applicable information and materials deemed appropriate by the City Engineer or CAO.

Sec. 2.9 Variance

- (a) *Standards.* A request for a change from a requirement of the Ordinance shall be submitted as a variance. There shall be a presumption against variances. Grant of a variance is not automatic.
- (b) *Submission and Review Process.*
 - (1) A request for a variance:
 - (i) Shall be submitted to the City on a form provided by the City; and
 - (ii) If submitted at the same time as plat submittal, shall be considered concurrently with the plat application in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
 - (2) Neither a public hearing nor public notice is required for a variance request.
- (c) *Criteria for Approval.* Where undue hardship will result from strict compliance with a certain provision of the Ordinance, a request for a variance may be approved if:
 - (1) A special individual reason makes the strict application of a provision of this Ordinance impractical;
 - (2) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land;
 - (3) The applicant will incur specific hardships should the variance not be granted. Pecuniary hardship to the applicant, standing alone, shall not be deemed sufficient to constitute undue hardship;
 - (4) The modification resulting from a variance is in conformity with the intent and purpose of this Ordinance;
 - (5) The granting of the variance will not be detrimental to the public's health, safety, or general welfare or be injurious to the property in the area;
 - (6) The granting of the variance will not create the probability of harmful environmental consequences;
 - (7) The variance will not negatively impact traffic conditions; and
 - (8) The granting of the variance will not have the effect of preventing the orderly development of other land in the area in accordance with the provisions of this Ordinance.
 - (9) A variance shall not be granted if it would provide the applicant with any special privileges not enjoyed by owners of other similarly situated property with similarly timed development.
 - (10) Conditions for a variance can be imposed where such requirements achieve the purposes of the Ordinance.
- (d) *Findings Required.* On approval of a variance by the City Council, findings shall be issued stating that:
 - (1) Granting the variance will not be detrimental to the public safety, health, or general welfare, will not be injurious to other property or to the owners of other property, and

- will not prevent the orderly subdivision of other property in the vicinity;
- (2) The condition(s) upon which the request for a variance is based is unique to the property for which the variance is sought and is not applicable generally to other property;
 - (3) Because of the particular physical surroundings, shape, and/or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 - (4) The variance will not in any manner vary the provisions of the Zoning Ordinance, the City's Comprehensive Land Use Plan, or any other adopted land plan(s) or ordinance(s) of the City;
 - (5) An alternate design will generally achieve the same result or intent of the standards and regulations prescribed herein; and
 - (6) If applicable, the variance will enable the applicant to preserve more native trees, provide more open space, or ensure more wildlife preservation than would be possible complying with the strict mandates of the Ordinance.

DIVISION 2-3. PLAT REVIEW PROCESS

Sec. 2.10 General Procedure.

- (a) *General Subdivision Process.* Generally, the subdivision process is comprised of three (3) individual parts: the concept plan, the preliminary plat, and the final plat. Each step of the development process has established deadlines and expirations that must be met in order for the application and any approval(s) granted to remain valid, in effect, and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.
- (b) *Submittal Schedule.* The CAO shall prepare an application submittal schedule. Applications will only be accepted for submittal or resubmittal on the days authorized by the schedule. The CAO is authorized to adjust an approved schedule to accommodate holidays, City Hall closures, and cancelled or special called meetings.
- (b) *Application Forms.* An applicant shall use application forms prepared by the CAO for submission of a plat application. The forms shall include a checklist of the required information and documents that are required to be submitted by an applicant in order for an application to be accepted as complete for review and processing under this Ordinance. The CAO shall update the application from time to time due to amendments to this Ordinance, State law, or applicable technical codes and manuals.

Sec. 2.11 Vesting

- (a) *Review Standard.* A plat application shall be reviewed and considered solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other requirements in effect at the time the original plat application is filed for review for any purpose, including review for administrative completeness.
- (b) *Accrual.* The rights described in (a) to which an applicant is entitled shall vest, or accrue, on the filing of a plat application, including a master plan, that gives the City fair notice of the project and the nature of the application sought.
- (c) *Filing.* For purposes of vesting, an application is considered filed on the date the applicant delivers the application to the City or deposits the application with the United States Postal

Service by certified mail addressed to the City. A certified mail receipt is prima facie evidence of the date the application was deposited with the United States Postal Service.

- (d) *Project Series.* If a series of applications is required for a subdivision development project, the rights accrued in the first application filed in that series shall apply and be the sole basis for consideration of all subsequent applications. Preliminary plats and related subdivision plats, site plans, and all other development permits for land covered by the preliminary plats or subdivision plats are considered collectively to be one series of applications for a project.
- (e) *Vesting Only.* A filing under this Section triggers the vesting requirement only. It is not the Official Filing Date for initiating the statutory timelines for approval, as outlined in this Ordinance.
- (f) *Expiration.* Vested rights accrued on the date of filing shall cease for a plat which has expired, been withdrawn, or disapproved and shall not apply to subsequent plats for the same property. Rights existing as of the date a new plat application is submitted shall vest.

Sec. 2.12 Pre-Application Meeting

- (a) *Pre-filing Meeting.* Prior to submission of a plat application, an applicant may meet with City Staff to discuss the property to be subdivided and proposed use.
- (b) *Concept and Plan.*
 - (1) At the meeting, the applicant may provide conceptual information relating to the proposed project, and the City shall advise on required land and development regulations applicable to the project.
 - (2) An applicant may submit a concept plan with diagrams and details of the proposed project at the pre-application meeting.
 - (i) The concept plan shall be used only as an aid to show the anticipated layout of the proposed development and to assess the adequacy of public facilities or services that will be needed to serve the development.
 - (ii) Any use or development depicted on the concept plan shall not be deemed a formal submission of a plat application by the applicant or approval of a plat by the City.
 - (iii) A concept plan may be in sketch form and shall be prepared at a scale no smaller than one inch to 100 feet.
- (c) *No Vesting.* No development right shall vest with participation in a pre-application meeting.
- (d) *Post-meeting.* Following a pre-application meeting, an applicant may submit to the City a plat application for review.

Sec. 2.13 Administrative Completeness

- (a) *Determination.* A plat application must be deemed administratively complete by the CAO in order to be accepted as officially filed for purposes of review and approval by the City.
- (b) *Requirements.* To be deemed administratively complete:
 - (1) The application must be accompanied by payment to the City of all applicable fees, as contained in the City's Master Fee Schedule;
 - (2) The application must meet all requirements under the Ordinance;
 - (3) The application must be accompanied by all documents required by and prepared in

accordance with the requirements of the Ordinance.

- (4) Pre-approvals, if applicable, must be obtained, including, but not limited to, traffic impact analyses, drainage studies, variances, other governmental entity approvals, and zoning and/or other approvals, if any, outlined during a pre-application conference. All approvals are required prior to official submission for filing of a plat application; and
- (5) The application must meet additional requirements imposed by the City for a complete application that are not contained within, but are consistent with, the application contents and standards of the Ordinance.

(c) *CAO Review Process.* The CAO is authorized to make the determination of administrative completeness.

- (1) A determination as to whether an application is complete shall be made within ten (10) business days following the date on which the submission was first received by the City or the application shall automatically be deemed complete.
- (2) If incomplete, the CAO shall provide written notice of the determination to the applicant not later than the 10th business day after the date the application is filed, and he/she must specify the documents or other information needed to complete the application. The notice shall advise of expiration of the plat application if the documents or other information are not timely provided.

(d) *Expiration.*

- (1) In accordance with Section 245.002(e) of the Texas Local Government Code, a plat application shall expire on the 45th day after the application is submitted if the CAO has provided written notice of incompleteness to the applicant and the applicant fails to provide the specified documents or other information within the time provided in the notice.
- (2) On expiration, the applicant must submit a new application and application fees to reapply. No vested rights accrue from the filing of an application that has expired.

(e) *Approval Only of Application.* A determination of completeness does not constitute approval of a plat application.

Sec. 2.14 Official Filing

- (a) *Submittal Date for Review.* A plat application deemed administratively complete shall be submitted for review on the next available uniform submittal date listed in the City's Uniform Submittal Schedule.
- (b) *Official Filing Date.* Submission of the plat application on the uniform submittal date shall be the "official filing date" for purposes of triggering the 30-day statutory timeline required for approval or disapproval of the plat. The statutory period shall commence to run after the official filing date.

Sec. 2.15 Approval Process

- (a) *Statutory Requirement.* The requirements of this Subsection are mandated by Section 212.009 of the Texas Local Government Code, as amended, and supersede any City Code or provisions to the contrary.
- (b) *P&Z Action.* Within 30 days after the date the plat is officially filed, the P&Z shall approve, approve with conditions, or disapprove a plan or plat. If no action is taken within the prescribed time period, a plat application shall be deemed approved by operation of law, unless it is disapproved within that period in accordance with the conditional approval or disapproval procedure requirements outlined below in this Section. The P&Z recommendation shall be forwarded to City Council.
- (c) *City Council Action.* The City Council shall approve, approve with conditions, or disapprove a plan or plat within 30 days after the date the plat is approved by the P&Z or its inaction. If no action is taken within the prescribed time period, a plat application shall be deemed approved by operation of law, unless it is disapproved within that period in accordance with the conditional approval or disapproval procedure requirements outlined below in this Section.
- (d) *Extension Request by Applicant.* Notwithstanding the approval periods outlined above, the 30-day period may be extended for a period not to exceed 30 days if:
 - (1) The applicant requests an extension in writing to the P&Z or City Council, as applicable; and
 - (2) The P&Z or City Council, as applicable, approves the extension request.
 - (3) Two extensions may be granted before the applicant must withdraw the plat application and reapply with a new application and payment of fees.
- (e) *Conditional Approval or Disapproval.*
 - (1) *Written Statement by City.* Conditions for conditional approval or reasons for disapproval of a plat application must be clearly articulated in writing to the applicant, may not be arbitrary, and must:
 - (i) Be directly related to requirements adopted under Texas Local Government Code Chapter 212 Subchapter A. *Regulation of Subdivision*; and
 - (ii) Include a citation to the law, including a statute or municipal ordinance, that is the basis for the condition for approval or disapproval.
 - (2) *Applicant Response.* An applicant may submit a written response that:
 - (i) Satisfies each condition for the conditional approval or remedies each reason for disapproval;
 - (ii) Must include changes only as necessary to address the condition of approval or reason for disapproval; and
 - (iii) May not include substantial changes unrelated to the condition of approval or reason for disapproval. Substantial changes will be cause for disapproval of the plat and require submission of a new plat application.
 - (iv) A deadline for an applicant response shall not be established.
 - (3) *Approval or Disapproval of Response by City.* Not later than the 15th day after the date the response was submitted, the P&Z or City Council, as applicable, shall determine

whether the applicant's previously disapproved or conditionally-approved plat:

- (i) May be disapproved only for a specific condition or reason provided in writing to the applicant; or
- (ii) Shall be approved if the response adequately addresses each condition of the conditional approval or each reason for the disapproval; or
- (iii) Shall take no action for approval of the plat by operation of law if:
 - (A) The applicant filed a response that adequately addresses each condition of the conditional approval or each reason for the disapproval; and
 - (B) The plat is not disapproved in writing on or before the 15th day after the date the response was submitted.

Sec. 2.16 Appeal

- (a) *Written Request.* An applicant who feels aggrieved by a decision of the CAO, the City Engineer, or P&Z regarding the implementation of the requirements of this Ordinance may file a written request for an appeal to the City Council.
- (b) *Authority of City Council.* Upon receiving a request for an appeal, the request shall be placed on the next available meeting of the City Council. The City Council may affirm the decision, in whole or in part, or waive the requirements which are the basis of the appeal.
- (c) *Criteria for Review.* The City Council shall uphold the decision upon a finding that the CAO, City Engineer, and/or P&Z has established that a nexus exists between the requirement appealed and the impact of the development, and that the decision is roughly proportional to that impact. Should the City Council find that a viable alternative to the requirement less than that required by the Ordinance is appropriate, the City Council shall modify the decision accordingly. Should the City Council find that a development shall have no impact on City infrastructure and required improvements, the City Council shall waive the requirement appealed.

Sec. 2.17 New Plat Application on Disapproval

A plat which has been disapproved and where the applicant failed to respond in accordance with the approval process in this Section is invalid. An applicant must reapply with a new application and payment of fees to begin a new approval process.

Sec. 2.18 Withdrawal of Plat Application

An applicant who does not wish for the application to be considered by the P&Z or City Council may submit a written request to the P&Z or City Council, as applicable, to withdraw and reapply at a later date. Vested rights for the plat which accrued on the date of filing of the plat and which was subsequently withdrawn shall cease.

Sec. 2.19 Certification of Action; Endorsement

- (a) *Certificate of Action on Plat.* The City shall maintain a record of each plat application made and the action taken on it. On written request by the applicant, the City shall certify the reasons for an action taken on an application.

- (b) *Endorsement of Plat.* On approval of a final plat, the plat shall be endorsed with the signature and date of the Mayor, a majority of the City Council, or the CAO, as applicable, and for the City Secretary to attest such signature(s). For purposes of this Section, a final plat also includes a minor plat, an amending plat, and a replat.
- (c) *Approval by Operation of Law.* If a final plat is approved by operation of law, on written request by the applicant, the City Secretary shall issue a certificate stating the date the plat was filed and that the City failed to act on the plat within the prescribed period. The certificate is effective in place of the endorsement above.

ARTICLE 3. TYPES OF PLATS

Sec. 3.1 Preliminary Plat

(a) *Requirements.*

- (1) Purpose. The preliminary plat provides detailed graphic information and associated text indicating property boundaries, easements, land use, streets, utilities, drainage, and other information required to evaluate proposed subdivisions of land.
- (2) A preliminary plat shall be required for subdivision of land into five lots or more and which includes:
 - (i) New easements for public facilities; or
 - (ii) The extension of municipal facilities to serve any lot in the subdivision; or
 - (iii) A new street.
- (3) A preliminary plat is typically required prior to the submission of a final plat; however, at the discretion of the CAO or City Engineer, a preliminary and final plat may be reviewed, considered, and approved concurrently.
- (4) The submission of a preliminary plat is not required for administrative review.

(b) *Review Process.* A preliminary plat must be processed in the following order:

- (1) Approval of administrative completeness of plat application;
- (2) Recommendation from the P&Z; and
- (3) Final approval by the City Council.

(c) *Application Requirements.* A preliminary plat application shall contain:

- (1) A completed plat application packet, in accordance with Section [redacted] of the Ordinance; and
- (2) A plat drawing created in accordance with the plat drawing requirements specified in Sections [redacted] of the Ordinance. The plat shall be marked as a "Preliminary Plat."

(d) *Submission and Approval Process.*

- (1) A preliminary plat application shall be submitted in accordance with the plat application requirements outlined in Article [redacted], Division [redacted] of the Ordinance.
- (2) A preliminary plat application shall be reviewed and considered for approval by the P&Z

and the City Council, in accordance with the plat review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.

- (3) Notice and public hearings are not required for the approval of a preliminary plat, unless otherwise specified in this Ordinance.

(e) *Effect of Approval – Construction and Final Plat.*

- (1) Approval of the preliminary plat shall not constitute approval of the final plat, but shall constitute a vesting of the right to develop under City ordinances, codes, and policies in effect on the date of the approval, provided that neither the preliminary plat nor any subsequent plat or permit has been, or is allowed, to expire.
- (2) Approval of a preliminary plat authorizes the applicant to submit an application for final plat approval.
- (3) Approval of a preliminary plat by the City Council shall be deemed general approval of the layout shown on the preliminary plat, *e.g.*, streets, lots, blocks, water lines, sewer lines, and drainage facilities, and to the preparation of the final plat. Approval for construction of streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the approval of the construction plans by City Staff, the City Engineer, the Building Official, and/or other reviewing entities.
- (4) No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the preliminary plat by the City Council, or prior to the issuance of all appropriate construction permits by the City and other appropriate entities or agencies.
- (5) No excavation, grading, tree removal, or site clearing activities shall occur prior to the approval of the preliminary plat and construction plans; however, preliminary grading or site preparation activities, such as limited excavation, filling, and removal of brush, undergrowth, or man-induced debris, may be authorized by the CAO.

(f) *Expiration of Approval.*

- (1) Approval of a preliminary plat application expires in accordance with Section [REDACTED] of the Ordinance.
- (2) A preliminary plat expired two years after approval but before the expiration of the project may be reinstated by resubmission of the plat, including payment of new fees, for review, consideration, and approval.

Sec. 3.2 Final Plat

(a) *Requirements.*

- (1) Purpose. The final plat provides detailed graphic information and associated text indicating property boundaries, easements, streets, utilities, drainage, and other information required for the maintenance of public records of the subdivision of land.
- (2) A final plat shall be required for a subdivision of land of five (5) lots and more.

- (b) *Review Process.* A final plat must be processed in the following order before it can be filed and recorded:

- (1) Approval of administrative completeness of plat application;
- (2) Submission of fiscal security in lieu of completed construction, in accordance with Section [REDACTED] of this Ordinance;
- (3) Final approval by the City Council.

(c) *Application Requirements.*

(1) Required: A final plat application shall contain:

- (i) A plat application packet with the required documents, as specified in Section [REDACTED] of the Ordinance;
- (ii) The approved preliminary plat and revisions, if applicable;
- (iii) Letters of certification from utility companies documenting approval of location of utility easements, if applicable, and verifying their ability and willingness to provide an adequate level of service for the proposed development;
- (iv) A digital copy of all plans (in a format as determined by the City Engineer) bearing sealed certification by the design engineer;
- (v) For a final plat which includes a private homeowner's association (HOA) with common area amenities, the HOA deed restrictions establishing the HOA with assessment power to operate and maintain the common areas. The deed restrictions shall be recorded along with the plat on final approval by the City Council; and
- (vi) Any other reasonable and applicable information and materials deemed appropriate by the City Engineer or CAO.

(2) *Plat Drawing:* The final plat drawing shall include the entire developed tract and contain the following:

- (i) Shall be on Mylar or comparable substitute sheets 24" x 36" and to a scale of one hundred (100) feet to one (1) inch. Where more than one (1) sheet is required, an index sheet of maximum size, 24" x 36" shall be filed showing the entire subdivision;
- (ii) A location map showing the relation of the subdivision to streets and other prominent features;
- (iii) Submittal date, subdivision title, scale, and north point indicated on the first sheet;
- (iv) The names of the adjoining subdivisions or the names of the adjoining property owners, together with their respective plat or deed references;
- (v) The lines and names of all proposed streets, other ways, or easements, including a statement of the purpose for which such easements are dedicated. In addition, the lines and names of other open spaces to be dedicated for public use and/or for use of the inhabitants of the subdivision;
- (vi) Identification and location of proposed uses and reservations for all lots within the subdivision;
- (vii) Sufficient data to determine readily and reproduce on the ground the location, bearing, and length of every street line, lot line, boundary line, block line, and building line, whether curved or straight, including the true north point. This shall include the radius, central angle, and tangent distance for the property lines of curved streets and curved property lines that are not the boundary of curved

- streets;
- (viii) The location of all permanent monuments and control points;
 - (ix) Suitable primary control points to which all dimensions, bearings, and similar data shall be referred. Dimensions shall be shown in feet and hundredths of a foot;
 - (x) Restrictive covenants imposed on the land;
 - (xi) Engineering standard subdivision notes;
 - (xii) A statement signed and acknowledged by the owner dedicating all required constructed public improvements, including streets, alleys, easements, parks, and other open spaces to public use, if applicable;
 - (xiii) The signature block for the Mayor, a majority of the City Council, or the CAO, as applicable, and for the City Secretary to attest such signature(s) and approval of and authorization for recordation of the plat;
 - (xiv) A certificate bearing the signature and seal of the surveyor who made the survey;
 - (xv) Signature blocks for the engineer and property owner;
 - (xvi) If the subdivision is not to be served immediately by the City wastewater system, a restriction stating that occupancy of any lot is prohibited until an on-site sewage facility has been installed, inspected, and approved by Blanco County, in accordance with the rules and regulations of TCEQ and Blanco County;
 - (xvii) Surveyor's certified perimeter field notes. Beginning point is to be an original corner of the original survey of which the plat is a part. At least one corner of a subdivision shall be tied by course and distance to a corner of the original survey of which it is a part or to a previously platted lot. The plat shall include a note describing the corner tie, and, if the subdivision is located within one mile of a global positioning system (GPS) monument accepted by the City, the location, coordinates, and elevation of a 5/8-inch iron rod set in concrete at two locations on the boundary of the subdivision shall be tied horizontally and vertically to the GPS monument;
 - (xviii) A minimum of two (2) survey ties across all right-of-way and at all changes in the width of right-of-way;
 - (xix) Record references and a statement signed and sealed by the surveyor indicating that all existing easements on or adjacent to the proposed subdivision shown on the title policy or discovered with a title search are shown or noted on the plat;
 - (xx) An electronic copy of the final plat; and
 - (xxi) Any other reasonable and applicable information and materials deemed appropriate by the City Engineer or CAO.

(d) *Submission and Approval Process.*

- (1) A final plat application shall be submitted in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
- (2) A final plat application shall be reviewed and considered for approval by the City Council in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
- (3) A final plat application shall be approved by the City Council when the following standards have been met:
 - (i) The plat substantially conforms with the approved preliminary plat;

- (ii) Fiscal security for construction of the improvements, *e.g.*, performance bond, has been submitted; and
 - (iii) The plat conforms to applicable zoning, subdivision, and other development-related regulations, codes, or ordinances of the City that are related to development of a land parcel.
- (4) Notice and public hearing are not required for the approval of a final plat, unless otherwise specified in this Ordinance.
- (e) *Effect of Approval – Filing and Recordation.*
- (1) Approval of a final plat authorizes the applicant to submit to the City final copies of the approved plat for filing and recordation at the Blanco County Clerk’s Office.
 - (2) The applicant shall provide five (5) copies of the approved final plat and payment of filing fees to the City following approval of the final plat.
 - (3) The CAO or designee shall submit to and file with the Blanco County Clerk’s Office an executed original and appropriate number of copies of the final plat for recording. The City shall provide a copy of the recorded final plat to the applicant within five (5) business days after filing at Blanco County.
 - (4) Upon recording, an applicant is authorized to convey or sell any portion or lot of the platted property.
 - (5) For recording, an approved final plat must:
 - (i) Identify the document as a “Final Plat” of the _____ Subdivision, Being a Plat of Block _____, Lot(s) _____ of the _____ Subdivision within the City of Johnson City, Texas (or within the Extraterritorial Jurisdiction of the City of Johnson City, Texas);
 - (ii) Contain on all sheets of the plat drawing a place for the County Clerk of Blanco County to stamp the date and location where the plat will be filed, *e.g.* “Volume or Cabinet _____, Page or Slide _____”;
 - (iii) Describe the subdivision by metes and bounds;
 - (iv) Locate the subdivision with respect to a corner of the survey, tract, or original corner of the original survey of which it is a part;
 - (v) State the dimensions of the subdivision and of each street, alley, square, park, or other part 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 street, alley, square, park, or other part;
 - (vi) Must be acknowledged by the property owner or agent, in the manner required for the acknowledgment of deeds;
 - (vii) Have attached to it tax certificates showing no delinquent taxes on the platted property and, also, the proper approvals required, pursuant to Section 12.002 of the Texas Property Code, as amended;
 - (viii) For a final plat with an improvement agreement, contain notations that an improvement agreement has been executed, improvements noted on the plat have not been constructed by the subdivision owner, and that improvements will be accepted for maintenance purposes by the City upon completion of construction; and
 - (ix) Conform with the plat filing standards of Blanco County with respect to clarity,

sheet size, lettering size, and reproducibility.

- (6) For a final plat with a homeowners association, the final plat must contain a notation that the property owners association or HOA, as owner of the private streets and improvements, agrees to release, indemnify, defend, and hold harmless the City for damages to the private streets occasioned by the reasonable use of the private streets; for damages and injury, including death, arising from the condition of the private streets; the use of access gates or cross-arms; or of any use of the subdivision improvement by the City.
- (f) *Expiration of Approval.* Approval of a final plat expires two years after the final plat is approved. A final plat which has not been recorded before expiration of the approval period shall be deemed expired and shall become null and void. Application fees are nonrefundable.
- (g) *Revisions to Approved Final Plat.* Any revision to an approved final plat shall necessitate resubmission and reapproval of the plat as a “revised final plat”.

Sec. 3.3 Replat

- (a) *Requirements.* A replat shall be required for subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract, and for property in which there has been a change in lot allocation, setbacks, dedicated infrastructure, or easements.
- (b) *Review Process.* A replat must be processed in the following order before it can be filed and recorded:
 - (1) Approval of administrative completeness of plat application;
 - (2) Approval of completion of construction of required improvements and/or submission of fiscal security, *e.g.*, a performance bond, in lieu of completed construction, if applicable;
 - (3) Approval of a maintenance bond, if applicable; and
 - (4) Final approval by the City Council, or administrative approval by the CAO if the replat qualifies for administrative approval.
- (c) *Application Requirements.*
 - (1) A replat application:
 - (i) Must be signed and acknowledged by only the owners of the property being replatted; and
 - (ii) Shall not amend or remove any covenants or restrictions previously incorporated in the final plat.
 - (2) A replat application shall contain:
 - (i) A completed plat application packet with the mandatory requirements, as specified in Section of the Ordinance;
 - (ii) A plat drawing created in accordance with the plat drawing requirements specified in Section of the Ordinance.
 - (iii) The original plat; and

(iv) A statement detailing the changes from the original plat.

(d) *Submission and Approval Process.*

- (1) A replat application shall be submitted in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
- (2) A replat application shall be reviewed and considered for approval by the P&Z and the City Council in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
- (3) A replat application may be administratively reviewed for administrative approval in accordance with the administrative approval process outlined in Section [REDACTED] of the Ordinance, provided that the replat:

- (i) Involves four or fewer lots fronting on an existing street; and
- (ii) Does not require the creation of any new street or the extension of municipal facilities.

(4) In addition, for a residential replat application where lots are limited to residential use, as defined in Article [REDACTED]:

(i) If the proposed replat requires a variance,

- (A) A public hearing shall be held before the P&Z for its recommendation and before the City Council for consideration of the P&Z recommendation; and
- (B) Notice of the hearing shall be given before the 15th day before the dates of the hearing by publication in the official City newspaper and by written notice addressed, with postage prepaid, 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 property tax roll. The notice shall also advise that for a legal protest, protests must be in writing; 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 variance and extending 200 feet from that area, but within the original subdivision; and must be filed with the P&Z and City Council prior to the close of the public hearing. On receipt of a protest, the affirmative vote of at least three-fourths of the members present of the P&Z and City Council is required for approval of the variance.

(ii) If the proposed replat does not require a variance, the City shall 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 property tax roll. The notice shall issue no later than the 15th day after the date the replat is approved and shall include:

- (A) The zoning designation of the property after the replat; and
- (B) A telephone number and e-mail address to contact the City about the replat.

(e) *Effect of Approval - Filing and Recordation.*

- (1) Approval of a replat authorizes the applicant to submit copies of the approved plat to the City for filing and recordation, in accordance with the filing and recordation procedures for a final plat.
 - (2) The replat shall be filed and recorded at Blanco County in the same manner as for a final plat and shall be identified as a "Final Plat" of the "_____ Addition, Being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of Johnson City, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of Blanco County, Texas".
 - (3) For an administratively approved replat, the following note shall be included: "This subdivision is subject to all covenants and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Volume _____, Page _____ of the Plat Records of Blanco County, Texas."
 - (4) A replat may be recorded without vacation of the preceding plat, in accordance with the requirements in Section _____ of this Ordinance.
- (f) *Expiration of Approval.* Approval of a replat expires two years after the replat is approved. A replat which has not been recorded before expiration of the approval period shall be deemed expired and shall become null and void. Application fees are nonrefundable.

Sec. 3.4 Amending Plat

- (a) *Requirements.* An amending plat shall be required for a plat which does not require a variance, and which meets any of the following criteria:
- (1) Corrects an error in a course or distance shown on the preceding plat;
 - (2) Adds a course or distance that was omitted on the preceding plat;
 - (3) Corrects an error in a real property description shown on the preceding plat;
 - (4) Indicates monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) Shows the location or character of a monument that has been changed in location, character, or that is shown incorrectly as to location or character on the preceding plat;
 - (6) Corrects 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) Corrects an error in courses and distances of lot lines between two adjacent lots if:
 - (i) Both lot owners join in the application for amending the plat;
 - (ii) Neither lot is abolished;
 - (iii) The amendment does not attempt to remove or modify recorded covenants, restrictions, or easements; and
 - (iv) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
 - (8) Relocates a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) Relocates one or more lot lines between one or more adjacent lots or units if:
 - (i) The owners of the lots join in the application for amending the plat;

- (ii) The amendment does not attempt to remove or modify recorded covenants, restrictions, or easements; and
 - (iii) The amendment does not increase the number of lots;
- (10) Makes necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (i) The changes do not affect applicable zoning and other regulations of the City;
 - (ii) The changes do not attempt to amend or remove any covenants or restrictions; and
 - (iii) The area covered by the changes is located in an area that the City has approved, after a public hearing, as a residential improvement area; or
- (11) Replats one or more lots fronting on an existing street if:
 - (i) The owners of the lots join in the application for amending the plat;
 - (ii) The amendment does not attempt to remove recorded covenants or restrictions;
 - (iii) The amendment does not increase the number of lots; and
 - (iv) The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (b) *Review Process.* An amending plat must be processed in the following order before it can be filed and recorded:
 - (1) Approval of administrative completeness of plat application; and
 - (2) Administrative approval by CAO or by the City Council, if administrative approval by the CAO is not issued.
- (c) *Application Requirements.* A final plat application, as provided in Section [redacted] of this Ordinance, shall be submitted for an amending plat and shall include:
 - (1) A completed plat application packet with the requirements specified in Section [redacted] of the Ordinance;
 - (2) A plat drawing;
 - (3) The original plat; and
 - (4) A statement detailing the changes from the original plat.
- (d) *Submission and Administrative Approval Process.*
 - (1) An amending plat application shall be submitted in accordance with the application review process outlined in Article [redacted], Division [redacted] of the Ordinance.
 - (2) An amending plat application shall be reviewed for administrative approval, in accordance with the administrative approval process outlined in Section [redacted] of the Ordinance.
 - (3) Notice and public hearing are not required for the approval of an amending plat.
- (e) *Effect of Approval – Recordation.*

- (1) Approval of an amending plat authorizes the applicant to submit copies of the approved plat for filing and recordation at Blanco County, in accordance with the filing and recordation procedures for a final plat.
 - (2) The amending plat shall clearly state that it is an “Amending Plat”, state the specific lots affected or changed as a result of the amended plat, and include the original subdivision plat boundary.
 - (3) The following note shall be included on the amending plat: “This subdivision is subject to all covenants and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Volume ____, Page _____ of the Plat Records of Blanco County, Texas.”
- (f) *Expiration of Approval.* Approval of an amending plat expires two years after the amending plat is approved. An amending plat which has not been recorded before expiration of the approval period shall be deemed expired and shall become null and void. Application fees are nonrefundable.

Sec. 3.5 Master Plan

- (a) *Requirements.* A master plan is required for development of a tract with 100 or more lots, for a large-scale development or subdivision, and/or for a master planned community to be constructed in phases.
- (b) *Master Plan Standards.*
 - (1) The purpose of a master plan is to delineate the sequence and timing of development within a proposed subdivision, where the tract to be developed will be developed in phases or is part of a larger parcel of land, in order to determine compliance with the Comprehensive Plan and the availability and capacity of public improvements needed to serve the development.
 - (2) A master plan shall be an overall conceptual layout of the proposed development and shall contain information sufficient to allow the City to plan for and closely coordinate the provision of public facilities and services to the development.
 - (3) A master plan shall not exceed 250 acres for single-family residential developments, or 100 acres for other types of developments. These limitations do not apply where the proposed acreage is in conformity with an approved planned development.
 - (4) A master plan shall include a phasing schedule which shall not be for more than five years. This limitation does not apply to land subject to an approved planned development.
- (c) *Review Process.* A master plan must be processed in the following order before a subdivision project can proceed:
 - (1) Approval of administrative completeness of the master plan application;
 - (2) Recommendation by the P&Z; and
 - (3) Final approval by the City Council.
- (d) *Application Requirements.*
 - (1) A master plan application shall contain:

- (i) An application packet with the requirements, as specified in Section 2.8 (a) Plat Application Packet Requirements of the Ordinance; and
 - (ii) A concept plan drawing created in accordance with the requirements of this Section.
- (2) The concept plan drawing for the master plan shall include the entire developed tract, and contain the following:
- (i) A scale of not more than 400 feet to the inch. If more detailed contour information is not available, the USGS map contours may be used for concept planning purposes in most cases;
 - (ii) Proposed name of the subdivision.
 - (iii) Location in relation to the rest of the City;
 - (iv) Boundaries of the proposed subdivision;
 - (v) A schematic layout of the entire tract to be subdivided, any remainder tracts, and its relationship to adjacent property and existing adjoining developments;
 - (vi) Proposed major categories of land use showing existing and proposed zoning;
 - (vii) Proposed number of dwelling units and population densities;
 - (viii) Proposed and existing arterials and collector streets to serve the land to be platted;
 - (ix) Location of proposed sites for parks, schools, and other public uses;
 - (x) Significant natural drainage features, including drainage courses and wooded areas, as delineated on USGS topographic maps or on any other topographic maps showing equivalent information;
 - (xi) Significant manmade features, including roads, buildings, utilities, arroyos, canals, laterals, or other physical structures, as shown on USGS topographic maps, utility company records, and City records when such features affect the plan;
 - (xii) Proposed dedication of land or rights of way for and construction of public improvements, whether on site or off site, intended to serve each proposed phase of the subdivision;
 - (xiii) Designation of each phase of development within the subdivision, the order of development, and a schedule for the development of each phase of the master plan;
 - (xiv) A detailed statement of how the proposed subdivision will be served by water, wastewater, roadway, and drainage facilities that have adequate capacity to serve the development;
 - (xv) A traffic impact analysis, as necessary for the entire project or such phases to adjudge whether the subdivision will be adequately served by streets and thoroughfares; and
 - (xvi) Any other reasonable and applicable information and materials deemed appropriate by the City Engineer or CAO.

(e) *Submission and Approval Process.*

- (1) Rights, as described in Section [redacted] of the Ordinance and applicable to the subdivision project, shall vest upon submission to the City of a master plan application.
- (2) A master plan application shall be submitted in accordance with the application review process outlined in Article [redacted], Division [redacted] of the Ordinance.
- (3) A master plan application may be submitted concurrently with the preliminary plat application for the first phase of the subdivision project. Fees shall be assessed per preliminary plat application.

- (4) A master plan application shall be reviewed and considered for approval by the P&Z and the City Council in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
 - (5) Notice and public hearing are not required for the approval and issuance of a master plan application, unless specified otherwise in this Ordinance.
- (f) *Effect of Approval – Preliminary Plat Submission.*
- (1) Approval of a master plan authorizes the applicant to proceed with the project by submitting a preliminary plat per the phasing schedule in accordance with the Application Review Process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
 - (2) Approval of the master plan is not final approval of project or of any plat, but an expression of approval of the layouts shown, subject to satisfaction of specified conditions, e.g., arrangement and approximate size of streets, lots, blocks, water lines, sewer lines, and drainage facilities.
- (g) *Expiration of Approval.* Approval of a master plan expires five years after approval if no progress has been made towards completion of the subdivision project, as described in Section [REDACTED] of the Ordinance. On expiration, a master plan shall be deemed expired and shall become null and void. Application fees are nonrefundable.

3.6 Minor Plat

- (a) *Requirements.* A minor plat is required for subdivision of land which does not require a variance and which meets the following criteria:
- (1) Involves a subdivision of land of four or fewer lots;
 - (2) Is consistent with all zoning requirements for the property, all City ordinances, and any approved development agreement;
 - (3) Does not create any new easements for public facilities, and the ownership, maintenance, and allowed uses of all designated easements are stated on the minor plat;
 - (4) Does not require the extension of any municipal facilities to serve any lot within the subdivision or the creation of any new street, and the tract of land is already adequately served by all required City utilities and services; and
 - (5) Is in accordance with any other reasonable and applicable criteria required by the City.
- (b) *Review Process.* A minor plat must be processed in the following order before it can be filed and recorded:
- (1) Approval of administrative completeness of plat application; and
 - (2) Administrative approval by CAO or the City Council, if administrative approval is not issued by the CAO.
- (c) *Application Requirements.* A final plat application, as provided in Section [REDACTED] of this Ordinance, shall be submitted for a minor plat and shall include:
- (1) A completed plat application packet with the requirements specified in Section 2.8(a) of the Ordinance; and

- (2) A plat drawing.
- (d) *Submission and Administrative Approval Process.*
 - (1) A minor plat application shall be submitted in accordance with the application review process outlined in Article [REDACTED], Division [REDACTED] of the Ordinance.
 - (2) A minor plat application shall be administratively reviewed for administrative approval, in accordance with the administrative approval process outlined in Section [REDACTED] of the Ordinance.
 - (3) Notice and public hearing are not required for the approval of a minor plat, unless specified otherwise in this Ordinance.
- (e) *Effect of Approval – Recordation.*
 - (1) Approval of a minor plat authorizes the applicant to submit copies of the approved plat for filing and recordation at Blanco County, in accordance with the filing and recordation procedures for a final plat.
 - (2) The minor plat shall be entitled and clearly state that it is a “Minor Plat.”
 - (3) The following note shall be included on the minor plat: “This subdivision is subject to all covenants and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Volume _____, Page _____ of the Plat Records of Blanco County, Texas.”
- (f) *Expiration of Approval.* Approval of a minor plat expires two years after the minor plat is approved. A minor plat which has not been recorded before expiration of the approval period shall be deemed expired and shall become null and void. Application fees are nonrefundable.

Sec. 3.7 Vacating Plat

- (a) *Requirements: Vacating Plat Standards.*
 - (1) A vacating plat is required to nullify all or part of a previously recorded plat.
 - (2) Vacation by Property Owner. A property owner of the tract covered by a plat may vacate the plat at any time before any lot on the plat is sold.
 - (3) Vacation by All Lot Owners. 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, as provided in Section 212.013(b) of the Texas Local Government Code, as amended.
 - (4) Exemption: Replatting without Vacating Preceding Plat.
 - (i) In accordance with Section 212.014 of the Texas Local Government Code, as amended, a replat may be recorded and is controlling over the preceding plat without vacation of that prior plat where the replat:
 - (A) Is signed and acknowledged by only the owners of the property being replatted;
 - (B) Is administratively approved or approved by the City Council, as applicable; and
 - (C) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

- (ii) A replat of a part of a subdivision and involving property owned by a nonprofit corporation to assist children in at-risk situations may be recorded in accordance with Section 212.0145 of the Texas Local Government Code, as amended, and is controlling over the preceding plat without vacation of that plat.
- (b) *Review Process.* A vacating plat must be processed in the following order before it can be filed and recorded:
 - (1) Approval of administrative completeness of plat application;
 - (2) Recommendation by the P&Z; and
 - (3) Final approval by the City Council.
- (c) *Application Requirements.* A vacating plat application shall contain:
 - (1) An application packet with the requirements, as specified in Section [redacted] of the Ordinance;
 - (2) The original notarized signature(s) of the property owner(s) of the subject property;
 - (3) The original plat to be vacated; and
 - (4) Approvals from an abandonment action, if taken.
- (d) *Submission and Approval Process.*
 - (1) A vacating plat application shall be submitted in accordance with the application review process outlined in Article [redacted], Division [redacted] of the Ordinance.
 - (2) A vacating plat application shall be reviewed and considered for approval by the P&Z and the City Council, in accordance with the application review process outlined in Article [redacted], Division [redacted] of the Ordinance.
 - (3) As a condition of approval of vacation of the plat, the City Council may direct the applicant to submit a revised final plat showing the vacated and non-vacated portions of the original plat and seek approval of the revised final plat, in accordance with the Application Review Process of the Ordinance, such that the property does not become “unplatted”.
 - (4) Notice and public hearing are not required for the approval of a vacating plat, unless specified otherwise in this Ordinance.
- (e) *Abandonment of Improvements of Vacated Plat.*
 - (1) In a plat vacation, separate abandonment action is:
 - (i) Not required for a prior plat with former offered, but not accepted, dedications; or
 - (ii) Required for a prior plat where former dedications have been accepted by the City.
 - (2) An abandonment action shall include:
 - (i) Initial City Council authorization of the abandonment and appointment of an independent appraiser to determine the fair market value of the abandoned improvements;
 - (ii) Assessment of an abandonment fee of 100% of the fair market value of a street, and

- 50% of the fair market value of an easement;
- (iii) A property owner's payment of an abandonment fee;
- (iv) City Council final approval of an ordinance of abandonment of the improvements; and
- (v) Recordation of the ordinance in conjunction with the vacated plat.

(3) On abandonment, the property owner shall not be entitled to a refund of any monies, fees, or charges paid originally by the property owner to the City for the improvements, nor to a return of any property or consideration dedicated or delivered to the City.

(f) *Effect of Approval – Filing and Recordation.*

- (1) Approval of a vacating plat authorizes the applicant to submit copies to the City of the approved plat for filing and recordation at Blanco County, in accordance with the filing and recordation procedures for a final plat.
- (2) A plat vacated under this Section is vacation of a previous plat in its entirety, pursuant to Section 212.013 of the Texas Local Government Code, as amended.
- (3) The vacated plat shall be marked with the word "Vacated" and shall contain a reference to the volume and page at which the vacating instrument is recorded, as required by Section 212.013(c) of the Texas Local Government Code, as amended.
- (4) A plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat, as provided in Section 212.013(a) of the Texas Local Government Code, as amended.
- (5) On the execution and recordation of the vacating instrument, the vacated plat has no effect, as contained in Section 212.013(d) of the Texas Local Government Code, as amended.

(g) *Expiration of Approval.* Approval of a vacated plat expires two years after approval. A vacating plat which has not been recorded before expiration of the approval period shall be deemed expired and shall become null and void. Application fees are nonrefundable.

ARTICLE 4. IMPROVEMENTS

DIVISION 4-1. REQUIRED IMPROVEMENTS

Sec. 4.1 Adequate Public Facilities Policy

The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water, wastewater, drainage, utility, and street facilities which are necessary to serve the proposed development, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the City. Wherever the subject property abuts adjoining undeveloped land, or wherever required by the City to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners.

Sec. 4.2 Public Improvements Required

- (a) *Findings Established.* The infrastructure improvements required herein are deemed reasonably related to the public needs, proportional to the impact created by the new development, and are required and shall be included in a subdivision plat, as applicable, for dedication to and acceptance by the City.
- (b) *Types of Improvements.* An applicant shall provide the following improvements, as applicable:
- (1) Drainage system improvements, including storm drainage easements, channels, storm sewer lines and inlets, basins, control structures, and landscaping;
 - (2) Water system improvements, including utility easements, water distribution lines, fire hydrants, valves, pumps, and water towers;
 - (3) Wastewater system improvements, including utility easements, sanitary sewer lines, manholes, and lift stations;
 - (4) Natural gas, electric, telephone, cable television, internet, and other telecommunications service utility improvements, including associated utility easements, installed in conformance with the terms and regulations of the provider of each utility;
 - (5) Transportation improvements, including streets, rights-of-way, alleys, sidewalks, bridges, signalization, signage, street lighting, and traffic control devices;
 - (6) Permanent monument markers;
 - (7) Parkland and historic, tree, and landscaping improvements, or fees in lieu thereof, in accordance with the Municipal Code of Ordinances; and
 - (8) Appurtenances to the above and any other public facilities required as a part of the proposed subdivision.
- (c) *Continuity of Improvements.* All improvements shall be designed and installed so as to provide for a logical system of utilities, drainage structures, and streets and to create continuity of improvements for the development of adjacent properties. As applicable, utility, transportation, and drainage improvements shall be extended to the perimeter of the development. The requirement for extending utility, transportation, and drainage

improvements to the perimeter of a subdivision may be modified in accordance with the variance procedural requirements contained in this Ordinance.

- (d) *Applicant/Developer Responsibilities.* Unless otherwise specified, the applicant/developer is responsible for the payment of all costs of materials, installation, and construction of all infrastructure and public improvements required by this Ordinance.

DIVISION 4-2. DESIGN STANDARDS

Sec. 4.3 Minimum Standards for Required Improvements

A required improvement shall be designed and constructed in accordance with the *Design Standards and Specifications Manual* (the "Manual"), as amended, for the City of Johnson City and applicable City codes and ordinances which are in effect at the time the plat is deemed officially filed. The Manual is incorporated fully herein by reference and contained in Appendix B.

Sec. 4.4 Easements

On-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose and to the specific entity for which they are being provided.

Sec. 4.5 Wastewater Hookup Variance.

An applicant may seek a variance from mandatory connection to the City's wastewater system:

- (1) If a variance is granted by City Council, an on-site septic facility (OSSF) must be installed in accordance with Texas Commission on Environmental Quality (TCEQ) and County regulations.
- (2) Where a variance is granted and an OSSF is to be installed, the applicant shall submit plans for future development, if applicable, and the installation of the wastewater system to serve each lot. Those parts of such system which will lie in the portions of the streets and alleys intended for vehicular traffic shall be installed during construction.

Sec. 4.6 Streets

- (a) *Requirement: Compliance with Major Thoroughfare Plan.*

- (1) The arrangement, character, extent, width, grade, and location of all streets shall conform to the City of Johnson City Major Thoroughfare Plan, incorporated fully herein as Appendix A, and to the *Manual*. Streets shall be considered in their relation to existing and planned streets or driveways, whether within the City, its ETJ, or within adjacent municipal or County areas, to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
- (2) For streets that are not shown on the Major Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:

- (i) Provide for the continuation or appropriate projection of existing streets from or

- into surrounding areas;
- (ii) Conform to a plan for the neighborhood, approved by the City Council, to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
- (iii) Provide for future access, such as by stubbing streets for future extension, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
- (iv) Not conflict in any way with existing or proposed driveway openings.

(b) *Traffic Impact Analysis.*

- (1) A traffic impact analysis (TIA) is required of a proposed project or plat:
 - (i) Involving a significant change to a proposed roadway alignment from that currently existing;
 - (ii) Involving a development of 50 or more dwelling units;
 - (iii) For developments generating 500 or more "one-way" trips per day; or
 - (iv) For developments involving collector or arterial streets not appearing on the City's Major Thoroughfare Plan.
- (2) If a TIA is required, the applicant shall meet with the City Engineer to determine the scope and area for the study prior to beginning work on the TIA.
- (3) The TIA shall be submitted with a preliminary plat application.
- (4) For phased development, a TIA may be required for additional phases or portions of the property as a condition of approval for the proposed plat. In the event that the applicant submits a TIA for an entire phased development project, an updated study may be required for later phases of the development.
- (5) The TIA shall conform to industry standards and include, at a minimum, the following:
 - (i) Trip generation rates for both a.m. and p.m. peak periods;
 - (ii) Trip distribution;
 - (iii) Adequacy determination for existing and proposed street cross sections;
 - (iv) Intersection level of service analysis;
 - (v) Baseline traffic conditions and peak hour operations prior to development which establishes the existing level of service to be maintained; and
 - (vi) Identification of and timing for proposed transportation improvements.
- (6) Effect of Adequacy Determination. If the TIA indicates an adequacy determination below a level of service "C", as described in the Institute of Transportation Engineers Trip Generation Manual, the proposed development shall be denied unless the developer agrees to one of the following conditions:
 - (i) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed. Intersection improvements and traffic-control devices shall be installed in accordance with the TIA;
 - (ii) A reduction in the density or intensity of development;
 - (iii) The dedication or construction of improvements to collector and arterial streets and intersections, as necessary, to mitigate traffic impacts generated by the

- development; or
- (iv) Any combination of techniques that would ensure that the development will not occur unless the levels of service for all roadways and intersections within the TIA study are adequate to accommodate the impacts of such development.

(7) A TIA may be waived under the following criteria:

- (i) The City Engineer determines that a TIA is not needed due to traffic analyses or studies already completed; or
- (ii) Improvements have been constructed or are under construction that will serve and support the new development.

(c) *Right-of-Way Dedication.*

- (1) For a subdivision adjacent to any existing State-maintained street, road, or highway: right-of-way of 25 feet adjacent to the land being platted shall be dedicated as future right of way. No additional pavement shall be required on existing streets where the dedications are required.
- (2) For a subdivision adjacent to a street, road, or highway located on the City Major Thoroughfare Plan: the remainder of one-half of the right-of-way width (shown on the Major Thoroughfare Plan) measuring from the middle of the existing thoroughfare to the adjacent property for future expansion of such street, road, or highway adjacent to the land being platted. The developer shall not be required to construct any portion of the street.

(d) *Deferred Construction and Escrow.* An applicant may, if unusual circumstances exist, such as a timing issue due to pending roadway improvements by another agency, such as TxDOT, that would present undue hardships or that would impede public infrastructure coordination or timing, request to construct the street or thoroughfare at a later date in exchange for deposit of escrow with the City of an amount equal to the costs of construction. The escrowed funds and accrued interest shall be refunded to the applicant after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost is borne by another party or governmental authority, the difference between the applicant's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements. If money is refunded within six (6) months of deposit, and prior to construction, only the principal will be refunded. Monies returned after this six-month period will be refunded with interest accrued, calculated at one percent (1%) less than the rate of actual earnings.

(e) *Private Streets and Association Requirement.*

- (1) A private street is restricted to private use and is not intended for regional or local through-traffic circulation.
- (2) Association Requirement. A subdivision developed with private streets or other improvements which are not intended to be dedicated to the City for public use i.e., private recreation facility, landscaped entry features, or other private amenities, shall have a mandatory property owners association or homeowners association (HOA) which includes all property and lots served by the private streets.
- (3) Maintenance. The

association shall own and be responsible for the maintenance of private streets and other private common areas.

- (4) Agreement Required. A property owners or HOA agreement, i.e., conditions, covenants, and restrictions (deed restrictions), articles of incorporation, and association by-laws, shall be submitted to the City for review and approval with the final plat application.
- (5) Defunct Association. The agreement must include provisions to allow the City to assume maintenance of common property, including, but not limited to, private streets and private recreation facilities, due to nonperformance, inaction, or if the association becomes defunct.
 - (1) The provisions shall allow use of association funds by the City to recoup maintenance costs.
 - (2) The provisions shall provide that, in the event of insufficient funds, ownership of the private streets, if any, and all other common areas shall be conveyed to the City, and shall provide also for the City to remove any improvements or amenities from these common areas and to sell any buildable land area as residential lots for the City to recoup its costs and expenses for maintenance or demolition of the improvements. Any monies remaining after the City has recovered all of its expenses shall be retained by the City for future maintenance or upgrading of the streets, common areas, if any remain, screening walls, or other improvements within the subdivision. These provisions are not intended to allow the City to profit from assuming the association's responsibilities or funds, but rather to allow the City to recoup its actual incurred expenses such that the general public does not bear these costs.
- (6) Amendments. No portion of the association documents pertaining to the maintenance of private streets and alleys may be amended without the written consent of the City Council.
- (7) Filing with County. The agreement and related documents shall be filed of record at Blanco County simultaneously with the final plat.
- (8) Indemnity. The final plat shall contain a notation whereby the property owners association or HOA, as owner of the private streets and improvements, agrees to release, indemnify, defend and hold harmless the City for damages to the private streets occasioned by the reasonable use of the private streets, and for damages and injury, including death, arising from the condition of the private streets, or of use of access gates or cross-arms, or of any use of the subdivision improvement by the City.
- (9) Deed Restriction Enforcement. The City is not responsible and has no jurisdiction for enforcing protective covenants or deed restrictions imposed by a property owners or homeowners association.
- (10) Dissolution. The association may not be dissolved without the prior written consent of the City Council.
- (11) Roads or streets that are shown on the Major Thoroughfare Plan, such as highways, major or minor thoroughfares, arterials, or collectors, shall not be used, maintained, or constructed as private streets.
- (12) A private street subdivision shall not cross or interfere with an existing or future collector or arterial street or with public access to or enjoyment of an existing or future public pedestrian pathway, hike and bike trail, greenbelt, park, or wildlife preserve, as already dedicated for public use.
- (13) A private street subdivision shall provide a minimum of eighty feet (80') of access

frontage on a public collector or arterial street for subdivision entrances in order to accommodate a median-divided entrance with appropriate vehicle stacking, queuing, and turnaround area.

- (14) Public utilities, drainage facilities, streetlights, and traffic-control devices, such as traffic signs, placed within the private street lot shall be designed and constructed to City standards. All private traffic-control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices," as amended, and to City standards.

(f) *Street Names; Addresses.*

- (1) New streets shall be named to provide continuity of street names and to prevent conflict or confusion with existing street names in the City, its ETJ, or in a neighboring jurisdiction.
- (2) New street names shall not duplicate existing street names either literally or in a subtle manner; shall not be so similar as to cause confusion between names; shall not sound like existing street names when spoken; and shall not be too difficult to pronounce, have undesirable meanings or connotations, or create language translation problems.
- (3) Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the City Council.
- (4) New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical.
- (5) A letter of approval of the street name(s) and addressing scheme from the City must be submitted by the applicant with the preliminary plat application. The names shall become fixed at the time of approval of the preliminary plat and shall be shown on the final plat.

DIVISION 4-3. CONSTRUCTION STANDARDS

Sec. 4.7 Compliance

- (a) *Compliance.* Construction of improvements shall comply with the engineering design standards and specifications contained in:
 - (1) the *Manual*;
 - (2) the minimum standards and specifications for improvements prescribed for each required improvement contained in this Ordinance;
 - (3) the plat;
 - (4) relevant construction standards and codes that are in effect at the time the plat application is officially submitted; and
 - (5) other applicable City codes and ordinances.
- (b) *Conflict.* To the extent a conflict exists between the standards and regulations in the *Manual* and the minimum improvement standards of this Ordinance, the more stringent standard and/or restrictive regulation shall apply.
- (c) *Plan Required.* Construction plans are required for construction of improvements in a subdivision. A construction plan shall be prepared by a licensed professional civil engineer, professional land surveyor, or similar. Tree preservation, landscaping, and irrigation plans may be prepared by a licensed landscape architect. An applicant's professional engineer,

land surveyor, or similar is responsible for the accuracy, completeness, and conformance to the City's *Manual* and design standards. The City has no project design or engineering responsibility.

- (d) *Approval Process.* Construction plans must be approved in the following order prior to construction:
- (1) Administrative completeness;
 - (2) City Engineer, or similar, approval of plan; and
 - (3) Submission and approval of fiscal security, if applicable.

Sec. 4.8 Fee Authorized

The City is authorized to assess and collect fees for review costs, including engineering fees, of construction plans submitted pursuant to this Ordinance. Fees shall be established by the City Council in the Master Fee Schedule, as amended, and are nonrefundable.

DIVISION 4-4. CONSTRUCTION PLANS

Sec. 4.9 Requirements

- (a) *Purpose.* Construction plans shall be submitted to the City for approval and be based upon the approved plat. The construction plans shall consist of detailed specifications and diagrams illustrating the location, design, and composition of all improvements identified in the plat. The plans shall be kept by the City as a permanent record of required improvements in order to:
- (1) Provide better records that facilitate the operation and maintenance of, and any future modifications to, existing City infrastructure;
 - (2) Provide data for evaluation of materials, methods of construction, and design; and
 - (3) Provide documentation of approved public improvements to ensure that all such improvements are built to City standards and specifications.
- (b) *Submission and Approval.*
- (1) Upon approval of a plat, the applicant shall submit to the City a construction plan application for review, consideration, and approval by the City Engineer, or similar. The City reserves the right to require corrections to actual conditions in the field that are found to be contrary to or omitted from the submitted plans.
 - (2) The City Engineer, or similar, shall respond within thirty (30) business days of submission with approval or plan revisions. Revisions or corrections made by the applicant in response to the City's review shall be resubmitted for re-review by the City Engineer, or similar.
 - (3) Prior to approval, the City Engineer, or similar, shall forward to Council for its approval an agreement for oversized improvement costs to be shared by the City, if applicable.
 - (4) The construction plans shall be approved and marked as approved by the City Engineer, or similar, upon a determination that the plan substantially complies with the approved plat, the *Manual*, the improvement standards of this Ordinance, and the oversized

improvement costs share agreement, if applicable. The City Engineer, or similar, shall document approval in a letter to the applicant with a copy to the City. The City shall retain one (1) approved plan set for filing.

- (6) Unless preliminary site work is approved by the City Engineer, or similar, no construction activities shall commence until such time as the construction plans have been approved by the City Engineer, or similar.
- (c) *Effect of Approval.* Approval of a construction plans authorizes the applicant to initiate construction of improvements in accordance with the plans.
- (d) *Expiration of Approval.*
 - (1) Approval of construction plans expires two (2) years after approval, in accordance with Section [REDACTED] of the Ordinance.
 - (2) Construction plans expired two (2) years after approval, but before the expiration of the project, may be reinstated by resubmission of the plan, including payment of new fees, for review, consideration, and approval.

Sec. 4.10 Construction Procedures

- (a) *Costs.* The applicant is responsible for and shall bear all costs of construction of improvements. Costs for off-site improvements, acquisitions of rights-of-way for improvements, extension of existing City utilities, or other improvements necessary to serve the subdivision shall be at the applicant's expense.
- (b) *Oversized Improvements.* The City may participate in the costs of oversized improvements with the applicant. Cost-sharing shall be agreed to in writing in an oversized improvement costs share agreement approved by the City Council.
- (c) *Permits.* Construction shall begin on approval of the construction plans and on issuance of all appropriate construction permits by the City and other appropriate entities or agencies.
- (d) *Site Preparation.* No excavation, grading, tree removal, or site clearing activities shall occur prior to approval of the construction plans, unless approved by the City Engineer, or similar.
- (e) *Plan on Site.* A full set of the approved construction plans marked as approved must be available for inspection on the job site at all times.
- (f) *Drainage Plan.* The drainage plan of the construction plan shall be made available to each builder within the proposed subdivision. All builders shall comply with the drainage plan.
- (g) *Stop Work Order.* A stop work order may issue if the CAO, City Engineer, Public Works Director, or Code Enforcement Officer determines that construction is not proceeding in compliance with the approved construction plan, construction permit, or other applicable City construction standards.
- (h) *Model Home.* A conditional construction permit for a model home may be issued once the streets to the subdivision have been constructed to sub-grade and water service and a fire hydrant are located within 500 feet of the lot on which the model home is located. The City shall note on the permit that the applicant accepts all responsibility for commencing construction prior to completion of the public improvements and City acceptance of the subdivision. A certificate of occupancy for the model home will not be issued until the subdivision and all public improvements have been accepted by the City, a final plat has been filed and recorded, and all utilities are connected to the home.

Sec. 4.11 Completion of Construction

- (a) *Completion.* After completion of construction, the applicant shall deliver to the City:
- (1) As-built construction documents indicating all improvements, new construction, and upgrades, including the location of all improvements above-and-below ground;
 - (2) Certification from a licensed Professional Engineer that all improvements have been installed and constructed in accordance with the approved construction plan; and
 - (3) Fiscal security for a two-year maintenance warranty.
- (b) *Engineer Approval.* Within fifteen (15) business days of receipt of the documents, the City Engineer, or similar, shall review the constructed improvements and determine whether all public improvements have been constructed in compliance with the construction plans.
- (1) On a determination of noncompliance, the City Engineer, or similar, shall notify the applicant about outstanding issues for resolution by the applicant. The City Engineer, or similar, shall be contacted to reinspect the site once these issues have been resolved.
 - (2) On a determination of compliance, the City Council, or similar, shall issue a "Certificate of Construction Compliance" with findings of satisfactory completion and full compliance.

DIVISION 4-5. GUARANTEE OF PERFORMANCE

Sec. 4.12 Recordation of Approved Plat and Fiscal Security

- (a) An approved plat may be filed for record before the required site improvements are completed if one of the following guarantees of performance is filed with the City within two (2) years after the plat has been approved by the City:
- (1) Performance bond.
 - a. A performance bond will be executed by a surety company licensed to do business in the State and AAA rated by the Texas Department of Insurance, or successor agency, in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted improvements required by these regulations, with the condition that the subdivider shall complete such improvements and have them accepted by the City Council within two (2) years from the date of plat approval.
 - b. The CAO is authorized to sign the bond instrument on behalf of the City and the City Attorney shall approve the same as to form.
 - (2) Trust agreement. The subdivider shall cause to be placed in a trust account on deposit in a bank or trust company or with a qualified escrow agent selected by the subdivider and approved by the City Attorney, a sum of money equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted site improvements required by these regulations. The CAO is authorized to sign the trust account agreement on behalf of the City and the City Attorney shall approve the same as to form.

(3) Letter of credit. The subdivider shall provide an irrevocable letter of credit in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted site improvements required by these regulations. The CAO is authorized to sign the letter of credit on behalf of the City and the City Attorney shall approve the same as to form.

(4) Cash or cashier's check. The subdivider shall provide to the City cash or a cashier's check in an amount equal to the cost estimate, as approved by the City Engineer, of all uncompleted and unaccepted site improvements required by these regulations. Upon completion of the required site improvements and their acceptance by the City Council, the amount, minus the amount of accrued interest, will be refunded to the subdivider by the City.

(b) When a subdivider has given security in any of the forms herein provided, and when 50 percent of the required site improvements have been completed and have been accepted by the City Council, or whenever any segment or segments of the required site improvements have been completed and accepted by the City Council, the subdivider may substitute for the original guarantee a new guarantee in an amount equal to the cost of the remaining site improvements. The cost estimate shall be approved by the City Engineer. Such new guarantee need not be in the same form as the original guarantee so long as such guarantee is one that is listed in this Section. However, in no event shall the substitution of one security for another in any way change or modify the terms and conditions of the guarantee of performance or the obligation of the subdivider as specified in the guarantee of performance.

(c) Supplementary guarantees may be required as follows:

(1) One year from the date of plat recordation and annually thereafter until the expiration of the two-year period from the date of plat approval, the City Engineer shall review the estimated cost of completing such site improvements as are not then completed and determine the adequacy of the existing performance guarantee. Should the engineer determine that the sum set out in the performance guarantee is inadequate to provide for the completion of the uncompleted site improvements at the then prevailing construction costs, he or she shall require a substitute guarantee to cover the newly estimated cost or a supplemental guarantee to cover the additional sum needed for completion.

(2) If a subdivider submits an original performance guarantee after a period of two years has lapsed from the date on which a plat was approved by the City, the actual cost estimate of completing the uncompleted site improvements shall be increased by an amount, based upon a locally recognized construction cost index as approved by the City Engineer, required to cover an estimated inflationary increase in the cost during the duration of the period covered by the performance guarantee.

(d) *Default.* In the case where required public improvements have not been installed within the terms of the agreement, the City may:

- (1) 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;
- (2) Suspend acceptance of the improvements until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
- (3) Draw down funds under the security, as outlined and in accordance with Section

- and complete the public improvements itself or through a third-party;
- (4) Assign its right to receive funds under the security to any third-party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's agreement to complete the public improvements on the property; or
 - (5) Exercise any other rights available under the law.

DIVISION 4-6. MAINTENANCE WARRANTY

Sec. 4.13 Requirements

- (a) *Purpose.* Fiscal security, e.g., a maintenance bond, shall bind the applicant to correct any defects in materials, workmanship, including utility backfills or design inadequacies, or damages in an improvement which may be discovered within the two (2) year maintenance period described below.
- (b) *Required.* An applicant shall submit a maintenance bond or other acceptable fiscal security upon completion and certification of construction of the improvements. A maintenance warranty is required for acceptance of improvements.
- (c) *Term.* The fiscal security shall be for a period of two years. The maintenance period shall begin on the date of written acceptance of the improvements by the City Council and shall remain in place during the maintenance period.
- (d) *Extension for Street Maintenance.* In the event of the maintenance or repair of a defect in a roadway or street improvement during the initial guarantee period, the applicant shall provide a one-year extended maintenance guarantee in favor of the City for the entire station(s) of the defect area. Such one-year extension period shall commence upon completion of the subject maintenance or repair. Such extended maintenance guarantee procedure shall be repeated until the defect with the affected station(s) has been remedied.
- (e) *Amount.* The amount of fiscal security by an applicant shall be 100% equivalent to the estimated cost of construction. Estimates shall be provided by the applicant and shall be approved by the City Engineer. Costs shall be based on current costs plus 10% for such work.
- (f) *Types of Security.* The fiscal security may be posted as a:
 - (1) Cash deposit to be held in an escrow account by the City;
 - (2) Maintenance bond; or
 - (3) Letter of credit.
- (g) *Components.* The fiscal security submitted by the applicant must:
 - (1) Be made payable to the City;
 - (2) Shall be in an amount approved by the City;
 - (3) Be signed by an agent and accompanied by a certified copy of the authority for him or her to act;
 - (4) For a maintenance bond, be obtained from surety or insurance company that is duly licensed, authorized, and AAA rated by the Texas Department of Insurance, or successor agency, in the State of Texas to issue maintenance bonds for the limits and coverage required and approved. The maintenance bond must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable

Sureties on Federal Bonds and as Acceptable Reinsuring Companies,” as published in Circular 570, as amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;

- (5) For a maintenance bond, provide that should it be deemed unenforceable as a statutory bond, the applicant will be bound by the contract as a common law obligation;
- (6) For a letter of credit,

- (i) Be irrevocable;
- (ii) Be for a term sufficient to cover the completion, maintenance, and warranty periods, but in no event less than two (2) years; and
- (iii) Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying the City’s right to draw funds under the letter of credit; and
- (iv) Be issued from a commercial bank rated in the highest category by at least two of Fitch Ratings Ltd., Moody’s Investors Service, Inc., and Standard & Poor’s Ratings Services or their respective successors.

- (h) *Insolvency of Surety.* If the surety on any fiscal security furnished by the applicant is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in U.S. Treasury Circular 570, the applicant shall, within twenty (20) days thereafter, substitute another maintenance bond and surety, both of which must be acceptable to and approved by the City.
- (i) *Certification of Surety for Acceptance.* The CAO shall issue a letter certifying the receipt and sufficiency of the fiscal security.

Sec. 4.14 Draw and Release

- (a) *Draw Down.* The applicant shall correct damage or defects within 30 days after receiving written notice of such defects from the City. If the applicant fails to satisfactorily repair or correct the defects within a reasonable time, the City may correct or repair any such damages or defects and draw down the fiscal security to pay for the cost of an improvement breach. The applicant is liable for the cost that exceeds the amount of fiscal security.
- (b) *Release of Security.* Upon the expiration of the two (2) year maintenance period, or extended warranty period, and after any damages or defects have been repaired or corrected, the City shall release the balance of the fiscal security remaining, if any.

DIVISION 4-7. ACCEPTANCE OF IMPROVEMENTS

Sec. 4.15 Withholding Services Until Acceptance

- (a) *Policy Declared.* The City Council hereby defines its policy to be that the City will withhold all City services, including the maintenance of streets and the furnishing of all other City services, from platted subdivisions until all street, utility, storm drainage, and other public improvements in the subdivision are properly constructed according to the approved construction plans, City standards, and until such public improvements are dedicated to and accepted by the City in accordance with this Ordinance.
- (b) *Acceptance Required.* Accordingly, the City shall not repair, maintain, install, or provide any streets, public utilities, or other public services in any subdivision for which a final plat has not been approved and recorded and improvements accepted, nor in which the standards contained herein or referred to herein have not been complied with in full. All other public utilities are prohibited from providing other utility services to a subdivision which has not been subdivided in accordance with this Ordinance.

Sec. 4.16 Acceptance of Improvements by City Council

- (a) *Formal Acceptance.* Acceptance of formal offers for the dedication of streets, public areas, easements, parks, or other improvements shall be by action of the City Council.
- (b) *Improvements for Acceptance.* Public improvements that are required for acceptance by the City include, but are not limited to, those required dedications listed in Section [REDACTED] of this Ordinance.
- (c) *Final Plat - No Improvement Agreement.* Where improvements have been constructed and completed prior to approval of a final plat by the City Council, approval by the City Council of a final plat application shall constitute acceptance by the City of the dedicated public improvements shown on the final plat. The final plat shall be endorsed with appropriate notes indicating acceptance.
- (d) *Final Plat with Improvement Agreement.*
 - (1) Where an improvement agreement has been executed in accordance with Section [REDACTED] of this Ordinance, approval of a final plat application shall not constitute or imply the acceptance by the City of an improvement shown on the plat. A final plat shall be endorsed with appropriate notes to this effect.
 - (2) Upon completion of construction of the improvements, an applicant shall apply for acceptance of the improvements and shall submit maintenance security as provided in this Ordinance. The application shall be considered for approval and formal acceptance by the City Council within 30 days after the application is received by the City.
 - (3) On approval by the City Council, the City shall issue a Certificate of Completion and Acceptance of Improvements with plat notations. The applicant shall file and record the Certificate with the Blanco County Records.
- (e) *Disapproval of Improvements.* Disapproval of a final plat by the City Council shall be deemed a refusal by the City to accept the offered improvement dedications shown on the plat.
- (d) *City Title and Use.* On acceptance of improvements, the City is authorized to:
 - (1) Receive title to the improvements by a warranty deed or grant of right-of-way, as

applicable. A deed shall have an adequate description of streets and roads, either by reference to the plat or by field notes prepared by a registered professional engineer or surveyor from a survey made on the ground;

- (2) Use the improvements; and
- (3) Assume any duty regarding the maintenance of the improvements.

ARTICLE 5. DEFINITIONS

Sec. 5.1 General

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the plural number shall include the singular number, and vice versa; and words in the masculine gender shall include the feminine gender, and vice versa. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word “shall” is always mandatory, while the word “may” is merely directory. Headings and captions are for reference purposes only.

Sec. 5.2 Specific

Access: A way or means of approach (public or private) to provide vehicular or pedestrian physical entrance to a property, which shall include public or private right-of-way dedicated to this use.

Administratively Complete: The status given by the City to a plat application which meets all initial requirements for submission for review, to include all information required by the City, accompanied by payment in full of the City’s application fee(s), as provided in the City’s Master Fee Schedule, as amended.

Amending Plat: See “Plat”.

Applicant: A person or entity who submits to the City an application for an approval required by this Ordinance and who is the owner of the subject property or has legal authority or proprietary interests in the land, as evidenced by appropriate documentation, to commence and maintain proceedings under this Ordinance. The term shall be restricted to include only the property owner(s) or a duly authorized agent and representative of the property owner.

Application: A written request to the City for an approval required by this Ordinance that contains all information required by the City.

Bond: A form of a surety bond in an amount and form deemed satisfactory by the City.

CAO; Chief Administrative Officer: The City’s Chief Administrative Officer or designee.

City: The City of Johnson City, a Type A General Law Incorporated Municipality, located in Blanco County, Texas.

City Council: The governing body of the City of Johnson City, Texas.

City Engineer: The licensed professional engineer of the City or firm of licensed professional consulting engineers that has been specifically employed by the City to assist in engineering related matters.

City Limits: The incorporated boundary limits of the City of Johnson City, Texas.

Comprehensive Plan: A periodically updated document that unifies all elements and aspects of City planning. This plan serves as a policy guide to zoning and subdivision decisions reflecting the best judgment of the staff, Planning Commission, and the City Council.

Concept Plan: A drawing of the overall conceptual layout of a proposed development superimposed upon a topographic map and which generally shows the anticipated plan of development.

Construction Plan: A drawing with specifications of the location, character, dimensions, and details, including all rights-of-way which may be required, of the work to be conducted in accordance with the City's *Design Standards and Specifications Manual* and applicable City rules and regulations.

Construction Plan, Design, or Drawing: The map or drawing showing the specific location and design of public improvements to be installed in the subdivision, in accordance with the requirements of the City as a condition of approval of the plat. The term includes "construction documents" and "construction specifications".

Design Standards and Specifications Manual; "The Manual": The City of Johnson City Manual which provides minimum requirements and standards of engineering design for construction of facilities and improvements in a subdivision. The *Manual* is incorporated fully herein as Appendix B. A complete copy is maintained and available for inspection at City Hall offices and online.

Easement: An area for restricted use on private property to which the City or private utilities have right of ingress and egress for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of their respective systems without requiring a property owner's permission.

ESD: The North Blanco County Emergency Services District No. 1.

Engineer: A person duly authorized and licensed under the provisions of the Texas Engineering Registration Act to practice the profession of engineering.

Escrow: A deposit of cash with the City in accordance with this Ordinance.

Extraterritorial Jurisdiction; ETJ: The unincorporated area outside of and contiguous to the corporate boundaries of the City, as defined and established in accordance with Texas Local Government Code Chapter 42.

FEMA: The Federal Emergency Management Agency of the U.S. Government.

Final Plat: See "Plat".

Landscape Architect: A design professional licensed by the State of Texas who deals with site work, such as plant selection and irrigation systems, as well as the design of ground works (drainage, utilities installations, buildings, and grading).

Lot: A designated parcel, tract, or area of land established by a plat or otherwise permitted by law to be used, developed, or built upon.

Flag Lot: A lot whose frontage and access is provided by way of a narrow projection of the lot to the street, and the buildable area of the lot is set back from the street. A flag lot is typically located behind another lot and connected to the street by an area narrower than the full lot width; also known as a “panhandle lot”.

Lot Area: The net area of a lot, exclusive of any portion of streets, alleys, or rights-of-way.

Lot Corner: A lot abutting upon two or more streets at their intersection.

Lot Line: The boundary of a lot.

Lot Width: The straight-line distance between the side lot lines, measured at the two points where the front building line intersects the side lot lines.

Master Plan. A site plan submitted for the purpose of establishing a street, water, and wastewater system for a large tract to be developed in sections.

Official Filing Date. The date on which an administratively complete application for a plan, plat, or permit is submitted to the City for review and approval, and which triggers the statutory timelines outlined for approval of a plat application in the Ordinance.

Owner: A person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land to be subdivided. An owner shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer.

Permit: A license, certificate, approval, registration, consent, permit, or other form of authorization required by law, rule, regulation, order, or ordinance that a person must obtain from the City to perform an action or initiate, continue, or complete a project for which the permit is sought.

Person: An individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.

Planning and Zoning; P&Z: The Planning and Zoning Commission of the City of Johnson City, Texas.

Plat: A plat is a complete and exact subdivision plan submitted to the Planning and Zoning Commission, City Council, and/or CAO for approval. This includes a preliminary plat, amending plat, final plat, major plat, minor plat, or replat.

Amending Plat: A revised plat correcting minor clerical errors or making limited changes to the original recorded final plat affecting a limited number of property owners or lots or for other correction purposes.

Final Plat: A subdivision of land of five or more lots. The official and authentic map of a subdivision of land prepared from actual field measurement staking all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners, and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat is a plat satisfying regulations for a final plat and is recorded with the Blanco County Clerks Office. An amended plat is also a final plat.

Minor Plat: A subdivision of land of four or fewer lots, fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities to serve any lot within the subdivision. The plat shall already be served by all required City utilities and services.

Preliminary Plat: The graphic expression of the proposed overall plan for subdividing, improving, and developing a tract, showing proposed street and lot layouts, easements, dedications, and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

Record Plat: The legal document filed of record with Blanco County.

Replat: The subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot, or tract. Replats eliminate the prior plats as to the area replatted.

Residential Replat: A replat where either (1) 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 (2) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

Vacating Plat: A plat to eliminate the subdivision of property reflected by a prior plat.

Preliminary Plat: See "Plat".

Project: An endeavor over which the City exerts its legal jurisdiction and for which one or more permits from the City are required to initiate, continue, or complete the endeavor.

Public Improvements: Facilities, infrastructure, and other appurtenances, typically owned and maintained by the City, which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare, and convenience of the City's citizens.

Record Plat: See "Plat".

Replat: See "Plat".

Review: To read, analyze, assess, and act upon a development application.

Right-of-Way: The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which a governmental entity has an interest.

Setback Line: The minimum distance between by which any building or structure must be separated from a street right-of-way or lot line.

Street: A public or private thoroughfare right-of-way which affords the principal means of access to abutting property. The term “street” shall include avenue, drive, circle, road, boulevard, highway, or any other similar term as follows:

Alley: Land dedicated to public use and devoted to secondary access to lots.

Arterial Street; Major Thoroughfare: A primary thoroughfare which provides vehicular movement from one neighborhood to another or to distant points within the City, includes freeways or highways leading to other communities.

Collector Street: A feeder street or secondary thoroughfare which provides vehicular circulation within neighborhoods, and from a local street to a major thoroughfare.

Cul-De-Sac: A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround or “bulb”. The length of a cul-de-sac is measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

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

Minor Street: A street used primarily for access to abutting residential property.

Private Street: A street owned and maintained by a homeowners’ association, property owners’ association, or other private entity and which is not dedicated to the public.

Residential Street: A minor thoroughfare or street which primarily provides direct vehicular access to abutting residential property.

Subdivision: The division or re-division of land into two or more lots, tracts, sites, or parcels.

Surveyor: A licensed land surveyor or a registered public land surveyor to practice the profession of surveying.

SWPPP: A Storm Water Pollution Prevention Plan contained within the engineering construction plans.

TCEQ: Texas Commission on Environmental Quality, or a successor agency.

Thoroughfare Plan; City of Johnson City Major Thoroughfare Plan: The City’s map of existing and conceptual proposed routes and roadways within the City; the map is incorporated fully herein and attached as Appendix A to this Ordinance. A copy is maintained and available for inspection at City Hall offices and online.

U.S. Army Corps of Engineers: The civil engineering branch of the U.S. Government, or a successor agency.

Yard: The open area between building lines and lot lines.

APPENDIX A: City of Johnson City Major Thoroughfare Plan