

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2025-07

**AN ORDINANCE AMENDING CHAPTER 82 OF THE CODE OF
ORDINANCES, CITY OF KERRVILLE, TEXAS, SUCH CHAPTER
COMMONLY KNOWN AS THE CITY'S SUBDIVISION CODE; BY
AMENDING VARIOUS SECTIONS OF THE CODE, INCLUDING
SECTIONS REGARDING THE PLATTING PROCESS AND
ADDING A REQUIREMENT FOR A CERTIFICATE OF
ASSURED GROUNDWATER RIGHTS; AND PROVIDING
OTHER MATTERS RELATING TO THE SUBJECT**

WHEREAS, on September 28, 2021, City Council adopted Ordinance No. 2021-24, which consisted of a comprehensive revision of the City's Subdivision Code; and

WHEREAS, Ordinance No. 2021-24 was adopted in accordance with and pursuant to the City's Comprehensive Plan (*Kerrville 2050*) as well as Chapter 212, Texas Local Government Code; and

WHEREAS, City staff recommends amending the Subdivision Code regarding regulations concerning the application process and other matters; and

WHEREAS, City staff believes that the amendments will lead to greater efficiencies and effectiveness as to the review and consideration of applications and actions required as part of the subdivision approval process; and

WHEREAS, pursuant to Section 212.002 of the Texas Local Government Code, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas (City), and otherwise, of a hearing held before the City Council on April 8, 2025, which considered a report from City staff regarding its recommendations on this Ordinance, the adoption of which will result in various amendments to the Subdivision Code as provided here; and

WHEREAS, on April 8, 2025, City Council held a public hearing on the amendments provided here and has considered comments, a report, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

SECTION ONE. Section 82-20, subsection (b)(1), of the Subdivision Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“(b) *Sequence to be followed.*

(1) No required plat or subdivision plan may be submitted for filing simultaneously with another required plat or subdivision plan, except ~~under the alternative procedure provided in section 82-22 an adequate facilities plan and a preliminary plat may be submitted concurrently.~~ No required plat or subdivision plan may be approved unless a required prior plat or subdivision plan has been approved or conditionally approved. Approval is required before the city will accept an application for the next stage of the sequence.”

SECTION TWO. Section 82-21 of the Subdivision Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“(a) *Pre-application conference.*

(1) Before a person may submit an application for approval of a plat or subdivision plan approval to the city, an applicant ~~shall~~ may meet with the director to review the following matters:

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~~(3) At the pre-application conference, the applicant may elect in writing to an alternative procedure pursuant to section 82-22.~~

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(b) *Official submittal dates.*

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(3) An applicant ~~shall~~ may schedule a meeting with the director on the official submittal date in order to review the proposed subdivision application.

(4) A subdivision application ~~shall not be accepted for filing on an official submittal date and~~ shall be returned to the applicant in the following circumstances:

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(c) *Complete application determination.*

(1) The director shall perform a completeness determination for the application ~~within five days of the official submittal date and if determined complete,~~

the plat and the application will be considered filed as of the date it was submitted.

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(d) *Thirty-day decision process.*

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(2) *Approval of adequate facilities plan (“AFP”).* The director shall endeavor to approve, approve with conditions, or disapprove an adequate facilities plan within 30 days after the date the AFP application is filed. Where such timing is not possible, the director shall inform the applicant. An AFP is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in subsection (d)(4), below.

(3) *Approval of construction plans.* The city engineer shall endeavor to approve, approve with conditions, or disapprove construction plans within 30 days after the date the construction plans application is filed. Where such timing is not possible, the director shall inform the applicant. A construction plan application is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in subsection (d)(4), below.

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(5) *Extension by agreement.* The applicant may request in writing and the either the commission or director, as appropriate, may approve the request for an extension of the time for plat ~~or subdivision plan~~ approval required by subsection (d)(1), above, for a period not to exceed 30 days, which may then be extended by an additional 30 day period. The written request shall be made at least 15 days prior to the time scheduled for a decision on the application. If an extension is granted, the applicant may submit additional materials in support of the application no later than 20 days before the date the commission is scheduled to review the application.

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(f) *Exceptions to 30-day decision process.* The 30-day decision process and post-decision procedures described in subsections (d) and (e), above, pertaining to the review of applications for subdivision plans or anything else besides plats, do not apply to the following proceedings:

- (1) Any request for relief provided for in this Code, including an application for any waivers from the standards or procedures;
- (2) Any appeal provided for in these regulations, including an appeal from a vested rights determination;

- (3) Any action by the city council on the city engineer's rough proportionality determination, including an appeal taken by an applicant;
- (4) Any actions taken to modify an approved final plat;
- (5) Inspections of improvements;
- (6) Any actions taken after plat recordation, other than a replat or amending plat;
- (7) Any request to extend plat or subdivision plan approval beyond an expiration date; ~~or~~
- (8) Any matter requiring authorization prior to submittal of a plat or subdivision plan application identified in subsection (a)(2), above; ~~or~~
- (9) A review by an outside party."

SECTION THREE. Section 82-22 of the Subdivision Code is deleted in its entirety as indicated by red, strikeout (~~deleted~~) as follows:

“Sec. 82-22. Alternative procedures.

- ~~(a) *Purpose.* The alternative procedures in this section are intended to facilitate the development of a complete subdivision application for each stage of subdivision approval. This process will allow an applicant to have components of their submittal reviewed ahead of an application for a plat or subdivision plan to assure that prerequisites to subdivision approval have been met and that a subdivision application is complete for commission or responsible official review before the time periods in section 82-21 begin to run.~~
- ~~(b) *Initial stage procedures.* At the time of the pre-application conference and submittal of an adequate facilities plan or preliminary plat application, an applicant may notify the director in writing that he or she desires to utilize the alternative procedures provided in this section. If the request to utilize the alternative procedures is approved by the director, an applicant may submit simultaneously an application for an AFP, where required, and an application for preliminary plat approval.~~
- ~~(c) *Staff review and application processing.* The director shall convene necessary staff and others to review the application(s) in order to identify any prerequisites to completeness of the application(s) and shall assist the applicant in satisfying such requirements. To the extent reasonably possible, the responsible official shall expedite approval of any prerequisites to completing the application(s). When the application(s) is complete in accordance with application standards, the responsible official shall accept the application(s) for filing on the next official submittal date. Thereafter, the procedures in subsections 82-21(d) and (e), above, apply.~~

(d) ~~Second stage procedures. Following approval or conditional approval of the adequate facilities plan and/or preliminary plat, the applicant may elect in writing to utilize the alternative procedures for applications for construction plans and final plat approval at the pre-application conference for construction plans or on any official submittal date. Thereafter, an applicant may submit simultaneously an application for construction plans approval and an application for final plat approval. The procedures in subsection (e), above, apply to review and processing of these applications.~~

(e) *Applicant's options.*

- (1) ~~An applicant who has submitted an application for a plat or subdivision plan approval may opt into the alternative procedures under this section by executing the election in writing and by withdrawing his or her subdivision application pending for decision by the commission or by the responsible official at least five days prior to the time scheduled for decision on the application. No additional filing fees will be charged for such election. Thereafter, the alternative procedures shall apply to processing the subdivision application.~~
- (2) ~~An applicant may withdraw from use of the alternative procedures by notifying the responsible official in writing and by submitting the application for a plat or subdivision plan approval on an official submittal date in the sequence required by section 82-21.~~
- (3) ~~Where an application for a plat or subdivision plan approval has been denied or is subject to a condition that shall be satisfied before the time of submitting a subsequent application, an applicant may elect in writing to consult with the director and other staff prior to submitting a response that satisfies the reasons for denial or the condition(s) as otherwise required by subsection 82-21(e)."~~

SECTION FOUR. Section 82-30, subsection (d), of the Subdivision Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (~~addition~~) as follows:

“(1) A copy of all required pre-authorizations set forth in subsection 82-21(ba)

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(14) The following studies, where impacts on the city's public infrastructure systems from the development exceed the thresholds established in article IV or as may be required by the city engineer:

- a. A traffic impact analysis (“TIA”);
- b. A drainage study; ~~and/or~~

- c. A utility plan that addresses water and wastewater capacity necessary for the development; and
- d. A certificate of assured water rights for the development, as more specifically described in subsection (e), below.

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(e) Certificate of assured groundwater rights. Where an adequate facilities plan is required, the application shall include a statement and documentation satisfactory to the director but akin to a title report, certifying that the groundwater rights remain a part of the estate.”

SECTION FIVE. Section 82-32, subsections (d), (e), and (f), of the Subdivision Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

- “(d) *Timing of public improvements.*
 - (1) *Completion prior to final plat approval and recordation.* A developer may complete all required public improvements in accordance with the approved construction plans prior to the approval of a final plat.
 - (2) *Completion before recordation of final plat.* ~~Unless an improvement agreement is executed pursuant to subsection (3), below, an~~ An approved final plat shall not be recorded in the real property records until after the public improvements have been completed by the owner and thereafter, inspected and accepted by the city, unless an improvement agreement is executed pursuant to subsection (3), below.
 - (3) *Deferral of obligation.* The city engineer may defer a subdivider's obligation to construct public street and sidewalk improvements upon execution of an improvement agreement, in a form approved by the city attorney, and upon provision of adequate security pursuant to subsection (e), below. Such improvement agreement shall be executed before final plat application and security provided ~~before final plat approval~~ prior to recordation if the subdivider wishes to defer construction of any public improvement. All underground infrastructure shall be installed prior to plat recordation.

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- (e) *Improvement agreement and security for completion.*
 - (1) *Contents of agreement.* When construction of any of the required public infrastructure has been deferred until after final plat approval and recordation, the final plat will not be accepted for filing, nor will it be

approved, unless and until the applicant enters into an improvement agreement with the city by which the applicant:

- a. Agrees to complete the improvements by a specified date;
- b. Warrants the improvements for two years following final acceptance by the city;
- c. Provides a maintenance bond in the amount of ~~110~~ 125 percent of the costs of the improvements for such time period;
- ~~d. Provides for securing the obligations of the agreement consistent with subsections (4) and (5), below; and~~
- ~~e.~~ Contains other terms and conditions as are agreed to by the applicant and the city or as may be required by these subdivision regulations.

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(4) *Security for completion of improvements.*

- a. *Type of security.* When any of the required public infrastructure will be constructed after approval and recordation of the final plat, the applicant shall guarantee his or her construction obligations by an irrevocable letter of credit, cash deposit with the city, ~~or~~ bond executed by a surety company licensed to do business in the State of Texas and on a form provided by the city attorney, or any other type of financial guarantee acceptable by the director. ~~The type of security required for each improvement shall be as agreed to by the city.~~
- b. *Estimated cost and security approval.* Security shall be issued in the amount of ~~110~~ 125 percent of the estimated cost, in the sole opinion of the city engineer, to construct and complete all required public infrastructure to city's standards. Security shall be subject to the review and approval of the city attorney.

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(5) *Escrow policies and procedures.*

- a. *Request for escrow.* The city engineer may require, or the developer may petition the city, to defer required public infrastructure in exchange for a deposit of cash funds in escrow. The city engineer may require studies and other information to support a developer's request to escrow funds. The parties will incorporate the provisions for escrow into the improvement agreement and/or an escrow agreement as specified below.
- b. *Escrow deposit.* When the city engineer requires or agrees to accept escrow deposits, the subdivider shall deposit funds in escrow in an

amount equal to ~~110~~ 125 percent of the total “turnkey” costs including the design, permitting, acceptance, and inflation costs related to the improvement(s). The city engineer shall review and approve the amount, which shall be approved and paid prior to ~~approval recordation~~ of the final plat. ~~The developer shall enter into an escrow agreement with city. The agreement will require that funds for the construction of the required improvements are escrowed with a state or national bank designated by the Texas Comptroller as a state depository institution and which has a branch located within 100 miles of the city’s limits where the funds are deposited. The agreement will provide that (i) the city has the irrevocable right to withdraw funds; and (ii) the developer, subject to approval of the director, may be permitted to draw funds pursuant to specific conditions to make payments towards the construction of the improvements as progress is verified by the city engineer.~~

- c. ~~Developer may obtain construction progress draws from the escrow account no more than once per month based on quantities of materials furnished and the work performed as identified on a schedule of values approved by the city engineer, the design engineer, and the developer. For any disbursements developer seeks from the escrow account, developer shall submit a draw request or pay application to the city engineer for approval.~~

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- (f) *Criteria for approval of construction plans.* The city engineer shall approve the construction plans if:

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- (3) The plans conform to the standards of article IV of these regulations; ~~and~~
- (4) An applicant has provided on-site easements and has acquired off-site utilities easements as required by subsection (d), above;
- (5) ~~Postponing construction of public infrastructure until after final plat approval and recordation is appropriate and a financial guarantee is acceptable through an improvement agreement; and~~
- (6) ~~An applicant has executed an improvement agreement and has posted security as required in subsection (e), above, if the obligation to construct public infrastructure has been deferred until final plat approval.~~

- (g) *Effect.* Approval of construction plans authorizes the applicant to schedule a pre-construction meeting with the city in accordance with subsection 82-40(a) and to apply for the city to release the plans for construction or final acceptance of utility infrastructure in accordance with subsection 82-40(b). If the obligation to

construct public infrastructure has been deferred until after final plat ~~approval and~~ recordation, approval of construction plans authorizes the applicant to apply for final plat approval.”

SECTION SIX. Section 82-33, subsections (b) and (d), of the Subdivision Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“(b) *Submittal requirements.* The following documents and verifications shall be submitted to the director with the application for ~~preliminary~~ final plat approval:

(1) A ~~copy of case number for~~ the approved preliminary plat and verification of approved construction plans in a form acceptable to the director;

(2) If construction of any public infrastructure is to be ~~delayed~~ deferred until after recordation of the final plat, an executed copy of the improvement agreement ~~and security for completion as~~ required by subsection 82-32(e);

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(d) *Criteria for approval of final plat.* The commission shall use the following criteria to determine whether the application for a final plat shall be approved, approved with conditions, or disapproved:

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~~(4) Where public infrastructure have been installed, the infrastructure conforms to the approved construction plans and have been approved for acceptance by the city engineer;~~

~~(54) Where the city engineer has authorized public infrastructure to be deferred, an improvement agreement has been executed and submitted by the property owner, ~~and security and/or escrow in conformity with these regulations has been provided to the city~~;~~

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SECTION SEVEN. Section 82-34, subsection (a), of the Subdivision Code is amended with new language indicated by blue, underline (addition) as follows:

“(a) *General delegation.* The director, after consultation with the city engineer, may approve a minor subdivision. The approval of a minor subdivision will be deemed to be the approval of a final plat for the subdivision, which may be recorded following approval. Minor plats do not require a preliminary plat.”

SECTION EIGHT. Section 82-35, subsection (b), of the Subdivision Code is amended with deleted language indicated by red, strikeout (~~deleted~~) and new language indicated by blue, underline (addition) as follows:

“(b) *Replat without vacation of preceding plat.*

(1) *Purpose and applicability.* The purpose of a replat is to allow changes to be made to all or a portion of a recorded plat without vacation of the recorded plat, if the replat:

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c. ~~Is approved by the commission~~ The director, after consultation with the city engineer, may approve a replat, unless the replat requires a public hearing which shall then be subject to approval by the commission according to subsection (5), below.

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(4) *Processing and decision.*

a. The procedures in section 82-21 apply to an application for a replat approval.

b. The director, within 30 days after the date the application is filed, shall approve the replat subdivision application if it meets the standards in this article. Such division may not create an undevelopable lot. If an application does not meet the standards, the director shall disapprove the application within such period.

c. The director may refer the replat subdivision application to the commission for a decision for any reason, such decision to be made within 30 days after the date the application is filed. The commission shall decide the application at its next regularly scheduled meeting.

d. If the proposed replat requires a minor waiver, the replat shall be approved by the commission in accordance with subsection (5) below.

e. An applicant has the right to appeal to the governing body of the municipality or the municipal planning commission if the designated person disapproves a plat.

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(56) *Effect.* Following ~~commission~~ approval of the replat application and recording of the replat, the replat is controlling over the previously recorded plat for the portion replatted.”

SECTION NINE. The City Secretary is authorized and directed to submit this amendment to the publisher of the City’s Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendments adopted herein and to

correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

SECTION TEN. The penalty for violation of this Ordinance shall be in accordance with the penalty provision contained in Section 1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

SECTION ELEVEN. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances in direct conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION TWELVE. If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

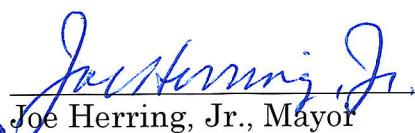
SECTION THIRTEEN. In accordance with Section 3.07 of the City Charter and Section 52.013(a) of the Texas Local Government Code, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication. The Ordinance shall then become effective in accordance with this Charter section.

April PASSED AND APPROVED ON FIRST READING, this the 08 day of April, A.D., 2025.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 22 of April, A.D., 2025.

ATTEST:


Shelley McElhannon, City Secretary


Joe Herring, Jr., Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney