

DRAFT 9/10/20

Kerrville Subdivision Ordinance

Division A. General Provisions

Section 1. Subdivision Code.

This Chapter shall be known and may be cited as the “City of Kerrville Subdivision Code,” and unless otherwise stated, the phrase “Subdivision Code” or “Code” as used in this Chapter means the City of Kerrville Subdivision Code.

Section 2. Purpose Statement.

The subdivision of land is a major factor toward the process of achieving sound community development and makes up a public responsibility because at times it includes the construction and dedication of public improvements; meaning that for example streets, utilities, and other public improvements must be provided and thereafter maintained by the City. Therefore, it is to the interest of the public, the developer, property owners, and future owners that subdivisions and other developments be conceived, designed, and developed in accordance with appropriate design standards and development specifications. It is the intent of these regulations to aid in guiding the growth of the City of Kerrville (“City”) and its extraterritorial jurisdiction in an orderly manner; and to provide attractive, well planned subdivisions with adequate streets, utilities, and building sites in a manner that will be uniformly applied. The goals and objectives of this Chapter are:

- a. to provide for the harmonious development of the urban area;
- b. to coordinate the supply of services as a tool for directing the optimal distribution of population in the urban area;
- c. to provide for the separation of pedestrian and vehicular traffic;
- d. to designate and preserve through advance dedication and reservation of rights-of-way for transportation corridors;
- e. to insure the acquisition of land for public needs to include parks, schools, drainage, open space, fire and police facilities;
- f. to preserve and maintain scenic vistas;
- g. to encourage the preservation of natural vegetation to minimize erosion;
- h. to restrict development in areas where hazards may result;
- i. to minimize the financial burden of urban development upon the City and taxpayers;
- j. to assure the accuracy of land records; and

DRAFT 9/10/20

- k. to address the needs of sensitive lands that would be adversely affected by the strict application of this Chapter.

Section 3. Authority and Jurisdiction

3.01 Authority.

From and after the date of its adoption, this Chapter shall govern all subdivisions of land and other development activities specified herein within the City and within its extraterritorial jurisdiction (“ETJ”), under the authority conferred by Tex. Loc. Gov’t Code Chapter 212 and pursuant to the home rule charter of the City and the Constitution of the State of Texas.

3.02 Applicability

- a. This Chapter applies to approval of plats, subdivision plans, and other developments for the division or development of property.
- b. This Chapter does not apply to applications for approval of zoning plans or plans required to accompany applications for building permits.
- c. Any application for plat or subdivision plan approval filed before **September 1, 2019** is governed by the subdivision procedures in effect immediately preceding this Chapter. Any application for plat or subdivision plan approval filed after such date shall be processed under the requirements of this Chapter. The procedures in divisions **A, B and C** of this Subdivision Code shall take effect on the date of adoption by the City Council.
- d. This Chapter applies to divisions of land and other developments within the City’s ETJ, except as otherwise expressly stated in the regulations or as may be prohibited by law.

Section 4. Definitions

4.01 Usage and Interpretation

- a. Usage. For purposes of this chapter, words and phrases have the meanings set forth below.
- b. Conflicts. When words and terms are defined herein and are also defined in other ordinance(s) of the City, they are to be read in harmony unless there exists an irreconcilable conflict, in which case the definition contained in this section controls.

DRAFT 9/10/20

- c. Present and Past Tenses. Words used in the present tense include the future tense; words used in the masculine gender include the feminine gender; words used in the singular number include the plural number; and words used in the plural number include the singular number.

- d. Specific Word Usage.
 - (1) The word “shall” or “will” is mandatory and not discretionary.
 - (2) The word “may” is permissive.
 - (3) The word “including” shall be construed as meaning “including, but not limited to”.
 - (4) The word “includes” shall be construed as meaning “includes, but is not limited to”.
 - (5) The words “applicant”, “developer”, “owner”, “person”, or “individual” shall include corporations, partnerships, associations, and groups acting together as a single entity.

- e. Words Not Defined. Terms not herein defined have the meaning assigned to them in the City’s building code or other applicable City code. Terms not herein defined nor defined in any applicable City code have the meaning customarily assigned to them in the planning and zoning profession.

- f. Interpretation. In the event a word or phrase used in this Chapter is unclear or ambiguous, any interpretation shall be made in a manner that uses reasonable judgment to apply the intent and purpose of regulations to the specific situation in question. The Director of Development Services (“Director”) or such other official as designated by the City Manager shall have the authority, upon request of an affected person, to interpret unclear or ambiguous words and phrases. The following rules of construction apply, where applicable, in interpreting provisions of these regulations:
 - (1) The designation in these regulations of an official, by title or otherwise includes a designee of the official.
 - (2) The word “year” means 365 calendar days.
 - (3) The word “month” means 30 calendar days.

DRAFT 9/10/20

- (4) The word “developer” is not, in all cases, interpreted as a reference solely to the property owner. The Director may interpret “developer” to mean persons acting on behalf of the property owner as an agent, to which the Director may require written affirmation of this relationship.

4.02 Definitions

100-year floodplain: the land area that may be affected by the flood having a one percent (1%) chance of being equaled or exceeded in any given year, based upon a fully developed watershed and the capacity of a creek or other drainageway to accommodate stormwater runoff from a 100-year storm event.

- b. “Abutting” means adjacent, adjoining and contiguous to; it may also mean having a lot line in common with a right-of-way or easement, or with a physical improvement such as a street, utility line, park, open space, etc.
- c. “Access” means an approach or entrance to a property either from a public right-of-way or via a private way, alley, easement or other right of passage.
- d. “Alley” means a minor right-of-way which provides a secondary means of vehicular access to abutting properties for delivery or public service purposes.
- e. “Block” means a grouping of residential lots (and their alleys) that are partially or fully surrounded by one or more streets. A block consists of one or two tiers of lots. Lots that are separated by an alley are in the same block, but lots that are separated by a street are in different blocks.
- f. “Building” means any structure which is built for the support, shelter, or enclosure of persons, animals, machinery, equipment, or movable property of any kinds.
- g. “Building line” or “building setback line” means a line that is parallel, or approximately parallel, to the street right-of-way line at a specific distance therefrom and defines an area on the building lot between the street right-of-way lines and the building line within which no structure shall be constructed.
- h. “Commission” means the City’s Planning and Zoning Commission.
- i. “Community sewage system” means a sewage collection, treatment, and disposal system designed to serve two or more sewage generating units

DRAFT 9/10/20

on separate lots in a subdivision or a system that is connected to another system for collection, treatment, and disposal of sewage.

- j. “Comprehensive Plan” means the City’s adopted planning document and maps, to include the City’s Thoroughfare Plan, along with any amendments, which is used as a guide for future development of the City and its surrounding areas.
- k. “Corner lot” means a lot or parcel of land bound on two (2) sides, usually at a 90-degree angle, by public streets.
- l. “Council” means the governing body of the City of Kerrville.
- m. “County” means Kerr County, Texas.
- n. “Crosswalk” means a public right-of-way not more than six (6) feet in width between property lines which provides pedestrian circulation.
- o. “Cul-de-sac” means a street having only one vehicular access to another street and terminated by a vehicular turnaround.
- p. “Dead-end street” means a street, other than a cul-de-sac, with only one vehicular outlet.
- q. “Development” means any activities related to the division of land or installation of improvements thereon, including the construction, reconstruction, conversion, or enlargement of buildings or structures; the construction of impervious surfaces (*e.g.*, parking lots); the installation of utilities, roadways, drainage facilities, or other infrastructure; or any disturbance of the surface or subsurface of the land in preparation for such construction activities, including grading, drainage, storage, paving, clearing, filling, and/or removal of vegetation or soil, and any mining, dredging, excavation, or drilling operations. “Development” includes such activities on a previously platted lot or tract.
- r. “Double-frontage lot” means a building lot, not a corner lot, which has frontage on two (2) streets that are parallel or within forty-five (45) degrees of being parallel to each other.
- s. “Easement” means a right that is granted to the City, to the public generally, and/or to a private entity for the purpose of limited public or semi-public use across, over, or under private land.

DRAFT 9/10/20

- t. “ETJ” means the extraterritorial jurisdiction of the City, as may be expanded or contracted from time to time by operation of law or by agreement.
- u. “Final plat” means the map or plat of a proposed subdivision submitted to the City for approval by the Planning and Zoning Commission.
- v. “Front” or “frontage” means that portion of a tract of land which abuts on a street to which it has direct access.
- w. “Homeowners Association” (HOA) means a community association which is organized within a development in which individual owners share common interests and responsibilities for open space, landscaping, amenities, or facilities, and which operates under recorded land agreements. This term also includes a Property Owners Association (POA) and Property Management Corporation (PMC), which are more typically formed for multi-family and nonresidential developments.
- x. “Lot” means a physically undivided tract or parcel of land having access to a street and which is, or in the future may be, offered for sale, conveyance, transfer, lease, or improvement, which is designated as a distinct and separate tract and may be identified by a lot number or tract symbol on an approved subdivision plat which has been properly recorded.
- y. “Lot depth” means the horizontal distance measured perpendicularly between two points on the front lot line and two points on the rear lot line which creates an area that meets (or exceeds) the zoning district’s minimum width and depth requirements.
- z. “Lot width” means the horizontal distance measured between side lot lines parallel to the front lot line, measured along the front building line.
- aa. “Off-site improvements” means all required improvements beyond the property limits of the subdivision.
- bb. “On-site improvements” means all required improvements within or contiguous to the proposed subdivision.
- cc. “Open space” means public and private property under public or common ownership designated for recreational use, private park, play lot area, building setback and ornamental areas open to general view

DRAFT 9/10/20

within the development, areas to be retained for views and vistas, wild-life preserves, and land set aside for drainage ways. No parking shall be permitted in lands defined as open space.

- dd. On-site sewage facility (OSSF”) means an on-site sewage system capable of complying with the current rules and regulations of the State of Texas and Kerr County.
- ee. “Pavement width” means the portion of the surface of a street available for vehicular traffic. Where curbs are laid, “pavement width” shall be measured from back of curb to back of curb. In the absence of curbs, it is that portion of vehicular improvements.
- ff. “Person” means any individual, association, firm, corporation, governmental agency, or political subdivision.
- gg. “Plat” means a map drawing or plan identifying the layout of a subdivision and includes a preliminary plat, final plat, minor plat, amending plat, and replat.
- hh. “Pollution” mean any substance which would generate, produce, or discharge any matter or thing into the atmosphere, surface of land, or water courses, including noise or odor, which violates state, federal, or local laws and/or is offensive to a person of ordinary sensibilities.
- ii. “Preliminary plat” means the first or introductory plat of a proposed subdivision submitted to the Planning and Zoning Commission.
- jj. “Record drawings” sometimes referred to as “as-builts”, means a group of drawings or plans that depicts the final configuration of the installed or constructed improvements of a development, improvements which have been verified by the contractor as their installation or construction occurs during development; **the** record drawings shall reflect the construction plans (or working drawings) used, corrected and/or clarified in the field, and shall be signed by the project’s design engineer.
- kk. “Replat” means a preliminary plat or final plat for all or part of any block or blocks of a previously platted subdivision, addition, lot or tract, other than an amending plat, whether or not the prior plat for the subdivision is proposed for vacation.
- ll. “Sidewalk” means a paved pathway, normally located within public right-of-way or within a pedestrian easement, that is typically used by

DRAFT 9/10/20

pedestrian traffic, bicycles, and other non-motorized personal conveyances.

mm. “Street” means an access way for vehicular traffic and other public uses, whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however otherwise designated. An alley is not considered a street. Streets include the following types:

- (1) An “arterial” street means a principal traffic artery or traffic way, generally having continuous routing over long distances, whose function is to serve as a principal connecting street with state and federal highways and shall include each street designated as an “arterial” on the Thoroughfare Plan.
- (2) A “collector” street means a street whose primary function is to collect and distribute traffic between major thoroughfares and minor streets, is not necessarily having continuous routing for long distances, generally has intersections at-grade providing direct access to abutting properties, and shall include each street designated as a “collector” on the Thoroughfare Plan.
- (3) A “local” street means a street whose primary function is to provide access to abutting residential property within neighborhoods, with all intersections at-grade, and not having continuous routing for any great distances to discourage through traffic.
- (4) A “marginal access” street means a street whose primary function is to provide a buffer between a subdivision fronting along an arterial street or highway. The purpose of these streets are to allow better through-traffic movement along arterials while preserving low-density residential living environments.
- (5) An “access” street means a street that provides access to cluster housing unit developments limited to ten (10) dwelling units or less. Access streets provide direct vehicular access to individual garages, drives or common parking courts.

nn. “Subdivide” or “subdivision” means the division of a tract of land into two or more parts by using metes and bounds description in a deed conveyance, a contract for deed, a lease, or by another manner such as platting, for the purpose of:

DRAFT 9/10/20

- (1) Laying out a subdivision of any tract of land or any addition to the City;
 - (2) Laying out suburban lots or building lots or any lots; or
 - (3) Laying out streets, alleys, or parks or other portions intended for public use or the use of the purchasers, owners, or lessees of lots fronting thereon or adjacent thereto.
- oo. “Subdivision application” means a request for approval of a plat or subdivision plan required to initiate the division or development of land.
- pp. “Subdivision plan” means an adequate facilities plan or construction plans. “Subdivision plan” excludes a zoning plan and/or the City Zoning Ordinance
- qq. “Subdivision regulations” or “these regulations” means the standards and procedures for property development and division, adopted by the Council by ordinance, as may be amended from time to time.
- rr. “Thoroughfare Plan” means the City’s adopted planning document and maps, along with any amendments or supplements thereto, which is used as a guide for the layout and configuration of major and secondary streets and highways and is a component part of the City’s Comprehensive Plan.
- ss. “U.G.R.A.” means the Upper Guadalupe River Authority.
- tt. “Vested right” means a right of an applicant in accordance with Chapter 245 of the Texas Local Government Code, as amended, requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of the subdivision regulations or any subsequent amendments thereto.
- uu. “Zoning plan” means a concept plan, site plan or similar document required to determine compliance with land use regulations which are authorized under Tex. Loc. Gov’t Code, Ch. 211.

Section 5. Platting Required

5.01 Duty to File Plat

Except as otherwise provided in Section 5.02, the owner of land located within the City or its extraterritorial jurisdiction who proposes to divide or develop

DRAFT 9/10/20

the land shall have a plat of the land approved as provided in this Subdivision Code. A division of land under this section includes a division of land by metes and bounds, or in a contract for a deed, contract of sale or other executory contract for conveyance. No improvements to the land shall be commenced until compliance with this Code is achieved.

5.02 Exemptions

The following subdivisions are exempted from the above stated platting requirement:

- a. A conveyance of land by dedication, lease, or sale to a public agency for a roadway, utility lines or drainage facility, provided that said conveyance is accepted and approved by the public agency.
- b. The conveyance of parcels of land between owners of adjoining property and contiguous land, provided that no additional lot or substandard lot is created.
- c. Any lease of public property at the Kerrville Airport.
- d. Any property subdivided prior to February 12, 2012, provided that each part of the subdivided property was adequately served by the following after the subdivision:
 - (1) Streets constructed and previously accepted for maintenance by the City or County, whichever is applicable;
 - (2) Water improvements as currently required by this or other applicable ordinances;
 - (3) Sanitary sewer or individual on-site sewage disposal system as currently required by this or other ordinances;
 - (4) Storm drainage facilities as currently required by this or other applicable ordinances, and
 - (5) Easements or rights-of-way as may be currently required by this or other applicable ordinance for the installation of any of the above stated improvements
- e. In accordance with Tex. Loc. Govt. Code §212.004(a), the division of land into two or more parts provided that:
 - (1) all parts after the division of land are larger than five acres;
 - (2) no public improvement is required by this Code to be dedicated; and,

DRAFT 9/10/20

(3) after the division, each part has access.

For purposes of this subsection (e), “public improvement” includes any extension of a water line or wastewater line to a point of connection located outside the boundary of the property. For purposes of this subsection (e), “access” shall mean connection to an existing public right-of-way abutting each part of the subdivided property, on which right-of-way is constructed a publicly maintained paved street or road, unless access by some other means has been previously approved by the Commission.

f. A person proposing to divide land under subsection (e) may apply for an exemption determination.

Section 6. Authority of Decision Makers

6.01 General Delegation.

Any actions set forth in these subdivision regulations for matters not designated for decision by the Commission or reserved to the City Council or otherwise expressly delegated hereby are delegated to the responsible official.

6.02 City Engineer

The City Engineer shall be the responsible official for approval of construction plans, preparing rough proportionality determinations, overseeing construction management, and promulgating standard specifications applicable to subdivision approvals.

6.03 Planning Director

The Planning Director, Director of Development Services, or other official or designee of the City responsible for filing plat and subdivision plan applications, for preparing recommendations for approval, conditional approval or disapproval of plat and adequate facilities plan applications to the Commission, for promulgating requirements for such plat or plan applications, for deciding exemption requests, and for approving adequate facilities plans. In carrying out these duties, the Planning Director shall consult with the City Engineer and other City departments and officials and his or her recommendations shall reflect such communications.

6.04 Planning and Zoning Commission

The Commission shall be responsible for approving plats and granting waivers to platting requirements.

DRAFT 9/10/20

6.05 City Council

The City Council shall have responsibility for reviewing appeals from rough proportionality determinations and waiver requests and for making changes to these subdivision regulations.

Section 7. Filing Fees

7.01 Establishment and Amendment of Filing Fees

A schedule of filing fees for plat and subdivision plan applications shall be established by City Council, as amended from time to time.

7.02. Fees Non-refundable.

All fees are nonrefundable.

Section 8. Enforcement

8.01 Commission Authorization Required

- a. No plat of any subdivision within the City or its ETJ shall be recorded in the Real Property Record of Kerr County, Texas and has no validity until it shall have been approved by the Commission in the manner prescribed by this Code.
- b. No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Commission and endorsed in writing on the plat, unless such changes are approved by the Commission.
- c. Until a final plat has been approved by the Commission and filed for record in the Real Property Record of Kerr County, Texas, no person shall transfer title of any parcel of such land, nor shall there be initiated any construction of residences or other buildings or private sewage disposal systems, nor shall any such property be served with public utilities. This prohibition does not apply to the construction of approved streets and utilities, provided that said utilities do not become operable and serve the development until such time as the final plat is approved and recorded.

DRAFT 9/10/20

8.02 Withholding Permits and Services

- a. The City shall not issue a permit for construction on a lot in a subdivision or development for which a final plat has not been approved and recorded.
- b. The City shall withhold all public improvements, including the maintenance of streets and the furnishing of **sewage** facilities and water service, to a subdivision or development for which a final plat has not been approved and recorded.

8.03 Enforcement

- a. Any person violating any of the provisions of this Code shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalty provided in the Code of Ordinances.
- b. The City shall have the right to institute an action in an appropriate court to enjoin the violation of any provision of this Code.
- c. The City may institute an action to recover damages from the owner of a tract of land in an amount adequate for the City any construction or other activity necessary to bring about compliance with a requirement of this Code. "Owner" does not include the purchaser of an individual lot in a subdivided tract of land.

8.04 Severability

If any section, paragraph, subdivision, clause, phrase, or provision of the ordinance adopting the Subdivision Code shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.

Division B. Platting Process – General Provisions

Section 9. Stages of Subdivision Approval

9.01 Platting Sequence

Except for minor plats, amending plats, and certain replats described in **Section 15**, the City's review and, where appropriate, approval of a subdivision is subject to three or four separate stages. Approval is required for each stage before an application for the next stage of the sequence will be accepted for filing. The stages shall occur in the following sequence:

DRAFT 9/10/20

- (1) Adequate facilities plan, as required in **Section 20.02**;
- (2) Preliminary plat;
- (3) Construction plans; and
- (4) Final plat.

9.02. Sequence to be Followed

- a. 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 10**. 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.
- b. Unless otherwise indicated in the action taken on an application, conditional approval means that conditions must be satisfied at the time for approval of a subsequent plat or subdivision plan. Disapproval of an application means that the applicant may not proceed to the next stage of subdivision approval until the grounds for disapproval have been satisfied.

Section 10. Application Procedures

10.01 Pre-application Conference

- a. Before any application for plat or subdivision plan approval is submitted for filing, and at least two weeks before the next official submittal date, an applicant shall meet with the Director to review the following matters:
 - (1) the sequence of stages required prior to approval;
 - (2) any claim of exemption for a contemplated division of land;
 - (3) prerequisites to filing the initial application;
 - (4) any request for **major** waivers to the subdivision regulations; and
 - (5) complete application requirements.

DRAFT 9/10/20

- b. The following authorizations are required prior to submittal of an initial application for subdivision approval, unless the Director determines that such authorization may be deferred until a later stage of subdivision approval:
 - (1) For property within the City, zoning approval for the contemplated use(s) of the property to be divided;
 - (2) Texas Department of Transportation approval for any contemplated modifications to a state-maintained roadway, to include access;
 - (3) Approval of amendments to the City's adopted Thoroughfare Plan or other master plan for public facilities and services necessary to serve the proposed development;
 - (4) Any requested vested rights determination; and
 - (5) Any request for a major waiver to these subdivision regulations.
- c. At the pre-application conference, the applicant may elect in writing to an alternative application procedure pursuant to Section 10.
- d. No application for subdivision approval will be accepted for filing at the pre-application conference.

10.02 Official Submittal Dates

- a. Applications for subdivision approval, submittal of documents for removal of conditions imposed on a plat or subdivision plan application, or submittal of documents for satisfaction of grounds for denial of subdivision approval may only be filed on official submittal dates.
- b. The City shall establish and publish on its website a monthly schedule of official submittal dates, which is subject to change.
- c. An applicant shall schedule a meeting with the Director on the official submittal date in order to review the proposed application.
- d. An application for subdivision approval shall not be accepted for filing on an official submittal date in the following circumstances:
 - (1) Prerequisite authorizations have not been obtained;

DRAFT 9/10/20

- (2) A prior required application has not been approved;
 - (3) A proposed major waiver is pending for decision; or
 - (4) The application is not complete.
- e. If an application for subdivision approval has been returned to the applicant for incompleteness following an initial review, the application shall be accepted for filing on the next official submittal date that it is submitted by the applicant. If any of the items in subsection (d) have not been resolved, the application shall be placed on the Commission agenda for summary denial. No further materials in support of the application shall be filed after the application has been accepted for filing. An applicant may elect to withdraw an application prior to the Commission decision on the application.

10.03 Complete Application Determination

- a. The City shall perform a completeness determination for the application on the official submittal date.
- b. In addition to any requirements stated in this Code, the Director in consultation with the City Engineer shall promulgate standards for a complete application for each plat or subdivision plan application, such standards to be in conformance with this Code and published on the City's website.
- c. The Director shall accept the application as complete or provide a list of deficiencies to the applicant that render the application incomplete.
- d. An application that remains incomplete after acceptance for filing shall be denied and returned to the applicant.

10.04 Thirty-Day Decision Process

- a. *Approval by Commission.* The Director shall prepare a report on a proposed plat or adequate facilities plan application. The Commission, upon consideration of the Director's report, shall approve, approve with conditions, or disapprove a preliminary plat, final plat, or other plat within 30 days after the date the plat or adequate facilities plan application is filed. A plat is deemed approved unless it is conditionally approved or disapproved by the Commission within that period in the manner provided in subsection (d).

DRAFT 9/10/20

- b. *Approval of Adequate Facilities Plan.* The Director shall approve, approve with conditions, or disapprove an adequate facilities plan within 30 days after the date the construction plans application is filed. An adequate facilities plan is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in **subsection (d)**.
- c. *Approval of Construction Plans.* The City Engineer shall approve, approve with conditions, or disapprove construction plans within 30 days after the date the construction plans application is filed. A construction plan application is deemed approved unless it is conditionally approved or disapproved within that period in the manner provided in **subsection (d)**.
- d. *Documentation for Conditional Approval or Disapproval.* The Commission or the Director, as the case may be, shall provide the applicant a written statement that clearly articulates each specific condition for conditional approval or reason for disapproval. Each condition or reason specified in the written statement must be directly related to the requirements of this Code and include a citation to the applicable law, including state or local laws, that is the basis for the conditional approval or disapproval. The Commission or Director shall identify the stage of the subdivision approval process by which the time for satisfaction of each condition or reason for approval imposed on the application must be satisfied.
- e. *Extension by Agreement.* The applicant may request in writing and the Commission may approve the request for an extension of the time for plat or subdivision plan approval required by **subsection (a)** for a period not to exceed 30 days. The written request must 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.

10.05 Post-Decision Procedures

- a. *Applicant's Response.* After the conditional approval or disapproval of a plat or subdivision plan under **Section 9.04**, the applicant may submit to the Commission or the responsible official, as the case may be, on an official submittal date a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval. Any response that does not address all of the conditions or reasons for disapproval shall be disapproved. When a condition may be satisfied at the next stage of subdivision approval, the applicant need not submit a response before application is made for the next plat or subdivision plan in the sequence of approvals.

DRAFT 9/10/20

- b. *Reply to Applicant's Response.* The Commission or the responsible official, as the case may be, that receives an applicant's response in accordance with subsection (a) shall determine whether to approve or disapprove the plat or subdivision plan not later than the 15th day after the date the response was submitted. The Commission or the responsible official, as the case may be, must approve the plat or subdivision plan if the response adequately addresses each condition of the conditional approval or each reason for the disapproval. If the Commission or responsible official disapproves the plat or subdivision plan, the applicant shall be provided a written statement that clearly articulates each reason for disapproval in the manner provided in Section 9.04(d). Following timely disapproval of the plat or subdivision plan, a new application for the plat or subdivision plan must be filed. If the response meets the criteria in subsection (a) and the Commission or responsible official, as the case may be, fails to act upon the response as required by this section, the plat or subdivision plan shall be deemed approved.
- c. *Delegation and Appeal.* The Director is authorized to take action on and prepare a reply to an applicant's response to conditional approval or disapproval of a plat or an adequate facilities plan in the event the Commission is unable to meet within the 15-day period required by subsection (b). The City Engineer is authorized to take action on and prepare a reply to an applicant's response to conditional approval or disapproval of construction plans. An applicant may appeal the decision of the Director to the Commission. An applicant may also elect to have the Commission take action on and make the reply by agreeing in writing to have the response considered at the next scheduled Commission meeting.

10.06 Exceptions to Thirty-Day Decision Process

The 30-day decision process and post-decision procedures described in Sections 9.04 and 9.05, respectively, do not apply to the following proceedings:

- a. Any request for relief provided for in this Code, including an application for any waivers from the standards or procedures;
- b. Any appeal provided for in these subdivision regulations, including but not limited to an appeal from a vested rights determination;
- c. Any action by the City Council on the City Engineer's rough proportionality determination, including but not limited to an appeal taken by an applicant;

DRAFT 9/10/20

- d. Any actions taken to modify an approved final plat;
- e. Inspections of improvements;
- f. Any actions taken after plat recordation, other than a replat or amending plat;
- g. Any request to extend plat or subdivision plan approval beyond an expiration date; or
- h. Any matter requiring authorization prior to submittal of a plat or subdivision plan application identified in **section 9.01(b)**.

10.07 Certification

- a. If a plat or subdivision plan is approved, the Commission or the responsible official, as the case may be, shall endorse the approved plat or subdivision plan with a certificate indicating the approval. The certificate shall be signed by the chair of the Commission, a majority of its members, or, in the case of approved construction plans, by the City Engineer.
- b. If a plat or subdivision plan application is deemed approved pursuant to sections **9.04(a) or 9.05(b)**, the Commission, or the responsible official, as the case may be, shall issue a certificate stating the date that the plat or plan application was filed and that the Commission or the responsible official failed to act on the application within the prescribed period.

10.08 Expiration and Extension of an Approved Plat or Subdivision Plan

- a. Expiration Date. Except as otherwise provided in this Code, unconditional approval of a plat or subdivision plan application or conditional approval where all conditions may be satisfied at a subsequent stage of subdivision approval, expire 1 year from the date of approval, unless the applicant submits and receives approval for a required subsequent application for approval.
- b. Deemed Expiration Date. If a plat or subdivision plan approved prior to the effective date of this Code has no expiration date, approval will be deemed to have expired on the second anniversary of the approval date, unless a subsequent application for subdivision approval has been filed.
- c. New Application Required. Following expiration of an approved plat or subdivision plan, a new application is required unless the date for expiration has been extended in accordance with this section.

DRAFT 9/10/20

- d. Project Expiration. Following expiration of an approved plat or subdivision plan, the project defined by a prior approved application shall be deemed to have expired within 5 years from the date of the last prior approval, unless a new application is made and approved for the expired plat or subdivision plan within such period, or unless progress toward completion of the project has otherwise been made.
- e. Extension Request. An applicant may submit a request to the planning director, or in the case of construction plans, to the City Engineer, for an extension of a plat or subdivision plan expiration date for a period not to exceed 1 year, if the request is filed at least 30 days before the date of expiration. Every request for extension shall include a statement of the reasons why the expiration date should be extended. More than one extension request may be filed.
- f. Criteria for Approval of Extension Request. The Director shall take into account the reasons for the requested extension, the ability of the applicant to comply with any conditions attached to the original approval, whether extension is likely to result in timely completion of the project, whether the applicant has made a good faith effort to submit a complete application for the next required application, whether there are circumstance beyond the applicant's control which have prevented submittal of an application for a subsequent stage of approval, and the extent to which newly adopted regulations should be applied to the original application.
- g. Appeal to Commission. Denial of an extension request by the responsible official may be appealed to the Commission within 10 days of notification of the denial. In deciding the appeal, the Commission shall apply the criteria in subsection (f).
- h. Conditions. The responsible official, or the Commission on appeal, may attach conditions to approval of an extension request such as are needed to assure that the land will be developed in a timely fashion and that the public interest is served.

10.09 Withdrawal of Application

The applicant for a plat or subdivision plan approval may withdraw the application following acceptance for filing at least 4 days before the time of the scheduled decision on the application. Following withdrawal, the applicant must submit a new application.

DRAFT 9/10/20

Section 11 Alternative Procedures

11.01 Purpose

The alternative procedures in this section are intended to facilitate the review of a complete application for each stage of subdivision approval in accordance with Section 212.0096, Tex. Loc. Gov. Code. Where followed, this process allows for a shorter approval process of an application for a subdivision plan or a plat by in part, assuring that prerequisites to subdivision approval have been met and that an application(s) is complete prior to its submission to the City.

11.02 Initial Stage Procedures

At the time of the pre-application conference preceding submittal of an adequate facilities plan or preliminary plat application, or on any official submittal date, an applicant may elect to utilize the alternative procedures provided in this section. Such election must be in writing on a form provided by the Director. Following execution of this election, an applicant may submit simultaneously an application for an adequate facilities plan, where required, and an application for preliminary plat approval.

11.03 Staff Review and Application Processing

The Director shall convene all necessary staff 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 Director shall expedite approval of any prerequisites to completing the application(s). When the application(s) is complete in accordance with application standards, the Director shall accept the application(s) for filing on the next official submittal date. Thereafter, the procedures in Section 10 applies.

11.04 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 plat and final plat approval at the pre-application conference for construction plans or on any official submittal date. Thereafter, the applicant may submit simultaneously an application for construction plans approval and an application for final plat approval. The procedures in **Section 11.03** apply to review and processing of these applications.

DRAFT 9/10/20

11.05 Applicant's Options

- a. An applicant who has submitted an application for subdivision plan or plat approval may opt into the alternative procedures under this section by executing the election in writing and by withdrawing his application pending for decision by the Commission or by the responsible official at least 5 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 application.
- b. An applicant may withdraw from use of the alternative procedures by notifying the responsible official in writing and by submitting the application for subdivision plan or plat approval on an official submittal date in the sequence required by **Section 9**.
- c. Where an application for subdivision plan or plat approval has been denied or is subject to a condition that must be satisfied before the time of submitting a subsequent application, the applicant may elect in writing to consult with staff prior to submitting a response that satisfies the reasons for denial or the condition(s) as otherwise required by **Section 10.05**.