

CITY OF HORSESHOE BAY
ORDINANCE NO. ORD 07-09-18F
SUBDIVISION ORDINANCE

AN ORDINANCE OF THE CITY OF HORSESHOE BAY ESTABLISHING A PROCEDURE FOR THE APPROVAL OF SUBDIVISION DEVELOPMENT FOR TRACTS OF REAL PROPERTY LOCATED WITHIN THE BOUNDARIES AND THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF HORSESHOE BAY; FOR REPLATTING OF PREVIOUSLY APPROVED SUBDIVIDED LOTS, FOR AMENDING PLATS TO CORRECT ERRORS AND OMISSIONS AND FOR VACATING OF APPROVED PLATS; PROVIDING DEFINITIONS AND CONDITIONS PREREQUISITE FOR APPROVALS; PROVIDING LOCATION FOR FILING APPLICATIONS FOR APPROVALS; PROVIDING REQUIREMENTS FOR THE PERIODIC INSPECTION OF CONSTRUCTION; PROVIDING FOR BUILDING STANDARDS FOR CONSTRUCTION; PROVIDING APPROVAL AUTHORITY FOR THE CITY COUNCIL; PROVIDING APPROVAL TIMETABLES; PROVIDING FOR FEES AND EXPENSE REIMBURSEMENT TO THE CITY OF HORSESHOE BAY; PROVIDING FOR ENFORCEMENT AND PENALTIES, COMPLIANCE WITH OPEN MEETINGS REQUIREMENTS AND EFFECTIVE DATE; PROVIDING FOR CERTAIN RELATED MATTERS; AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

WHEREAS, Chapter 212, Texas Local Government Code, permits the adoption of rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals or general welfare of the municipality and the safe, orderly and healthful development of the municipality; and

WHEREAS, Chapter 212, Texas Local Government Code, requires that in the absence of a municipal planning commission, the City Council for the City of Horseshoe Bay shall be responsible for approving plats required to be prepared that satisfies all applicable regulations; and

WHEREAS, Chapter 212, Texas Local Government Code, requires that a person desiring approval of a plat must apply to and file a copy of the plat with the City Council for the City of Horseshoe Bay; and

WHEREAS, each of the subdivisions listed on Appendix "B" attached hereto and made a part hereof have adopted restrictive covenants and architectural standards for improvements located within their respective boundaries and any new construction must be in compliance with each of their respective subdivision requirements or in compliance with any other ordinance adopted by the City of Horseshoe Bay, whichever is the more restrictive; and

**Subdivision Ordinance – City of Horseshoe Bay, Texas
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I. GENERAL

(a) SHORT TITLE

This Ordinance shall be known, and may be cited and referred to as the "Subdivision Ordinance" of the City of Horseshoe Bay, Texas

(b) PURPOSE

In order to achieve the orderly, efficient, and environmentally sound subdivision of land, the City must be provided with appropriate guidelines and development management mechanisms. This Ordinance, in conjunction with any other land use control tool as now or hereafter may be adopted by the City, provides those guidelines and mechanisms. It is the intent and stated purpose of this Ordinance to:

- (1) Provide for the orderly, efficient and economical development of residential, and commercial land uses, and community facilities, including transportation, water, sewage, drainage, parks, recreation and any other related element or service;
- (2) Guide and phase land development to maximize the utilization of existing and proposed public improvements;
- (3) Guide and regulate the financial impact of land development on municipal facilities, services, and capabilities;
- (4) Ensure that the comprehensive and coordinated plans affected by the various land use controls of the City are not negated by disorganized, unplanned and uncoordinated development which would create an undue burden and hardship on the community;
- (5) Establish and maintain municipal control over the character of development and the quality of community facilities and services;
- (6) Enhance the community aesthetically and to preserve and improve the quality of life within the community;
- (7) Promote the conservation of water resources; and
- (8) Promote the health, safety, morals and general welfare of the people, and the safe, orderly and healthful development of the community.

(c) AUTHORITY AND JURISDICTION

- (1) This Ordinance is adopted under the authority of the Constitution and laws of the State of Texas, particularly Chapter 212, Municipal Regulation of Subdivisions and Property Development of the Texas Local Government Code, and any other authority provided by law, and as such statutes may be amended.

(2) Except as specifically provided otherwise herein, this Ordinance shall apply to all subdivisions and all related land development activities, as they are both defined herein, and all land, any part of which is located within the jurisdiction of the City. The jurisdiction of the City shall be defined as follows:

(A) The corporate limits of the City of Horseshoe Bay, Texas; and

(B) The ETJ of the City of Horseshoe Bay, Texas; and

(C) Any additional area outside (a) and (b) above as by agreement with other jurisdictions, permitted by law and which has been approved by the City Council.

(d) CONSISTENCY WITH THE COMPREHENSIVE DEVELOPMENT PLAN.

(1) It is the intent that this Ordinance shall provide for the implementation of the Comprehensive Development Plan, and any supplemental land use and community development policies that may be hereafter adopted by the City Council. No plat or subdivision of land within the City or its ETJ shall be approved unless it conforms to such Plans, Policies and Ordinances.

(e) ENFORCEMENT

(1) General

(A) The Development Services Manager shall have the primary responsibility to enforce these regulations and to bring to the attention of the City Attorney, and any other appropriate authority, any violations or lack of compliance with these regulations. Any department, agency, employee or enforcement officer of the City having information regarding an alleged violation to this Ordinance, shall report that information to the Development Services Manager.

(B) No owner or agent of the owner, of any parcel of land located in a proposed Final Plat shall transfer or sell any part of the parcel before a Final Plat is duly recorded with the appropriate County Clerk, as provided in this Ordinance.

(C) The owner or owners of any building or premises or part thereof, where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be fined as herein provided.

(2) Violations and Penalties

It shall be unlawful for any person to violate any section or subsection of this Ordinance or fail to comply with same. In addition to all other remedies and relief available to the City at law or in equity for a violation of this Subdivision Ordinance, the following non-exclusive forms of relief shall be available to the City:

- (A) Within the Corporate Limits. Any person who violates any of these regulations for lands within the jurisdiction of the City shall be deemed guilty of a misdemeanor and subject to a fine not to exceed Two Thousand and No/100 Dollars (\$2,000) per day, with each day constituting a separate violation, pursuant to the Texas Local Government Code, Chapter 54, as amended.
- (B) Within the ETJ. A fine or criminal penalty prescribed by this Ordinance does not apply to a violation in the ETJ. The Development Services Manager shall report violations to the City Attorney and General Manager to determine appropriate action.
- (C) Civil Enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct or abate a violation of these regulations, whenever such violation occurs with respect to lands within the jurisdiction of the City. These remedies shall be in addition to the penalties described above. The City may recover a civil penalty not to exceed one thousand dollars (\$1,000) per day for violation of this Ordinance.
- (D) Withholding of Subdivision Acceptance. The City may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this Subdivision Ordinance including, but not limited to, the refusal to issue building permits and certificates of occupancy, and the refusal to connect the property to City utilities and services.
- (E) In addition to any other remedy provided by law, the City and its officers have the right to enjoin any violation of this Ordinance by injunction issued by a court of competent jurisdiction.

(f) APPEALS

- (1) Decisions of the Development Services Manager may be appealed to the City Council. All appeals shall be submitted in writing to the General Manager within thirty (30) days upon notification of the decision.
- (2) The General Manager shall make a determination on the appeal within twenty (20) days of the submission of the appeal. In the event the person filing the appeal is dissatisfied with the determination of the General Manager, he or she may present the matter to the City Council at the next available regular meeting, who shall render a decision. The decision of the City Council on the appeal shall be final.

(g) LEGAL PROVISIONS

- (1) **Conflicting Orders.** If any other City order is in conflict with this Ordinance, the most stringent rules will apply. Nothing will be permitted under the provisions of this Ordinance that is in violation with another valid ordinance of the City.

- (2) Severability Clause. If any section, clause, paragraph, sentence or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such invalid section, clause, paragraph, sentence or phrase is hereby declared to be severable; and any such invalid or unconstitutional section, clause, paragraph, sentence or phrase shall in no way affect the remainder of this Ordinance; and it is hereby declared to be the intention of the City Council that the remainder of this Ordinance would have been passed notwithstanding the invalidity or unconstitutionality of any section, clause, paragraph, sentence or phrase thereof.

(h) DISCREPANCIES

Where a discrepancy exists between the requirements established in this Ordinance and the requirements of the construction codes, fire code, or any other applicable code or ordinance of the City, or any state law, then the more restrictive requirements shall apply.

(i) GENERAL DESIGN STANDARDS

All improvements required by this Ordinance shall be constructed and installed in accordance with the City of Austin Design and Construction Standards (<http://austintech.amlegal.com>), which are adopted and incorporated into this Ordinance by reference, with the exceptions and additional standards provided in the City of Horseshoe Bay Design Standards and Construction Details, as may be revised by the General Manager, or his designee, from time to time, and incorporated into this Ordinance by reference.

II. ADMINISTRATION

(a) POLICY

- (1) In order to carry out the purposes herein above stated, it is hereby declared to be the policy of the City to consider the subdivision and/or development of land as subject to the control of the municipality, pursuant to the Comprehensive Development Plan, as adopted or amended from time to time, for the orderly, planned, efficient and economical development of the City and its jurisdiction. This section shall be administered such that:
- (A) Land to be subdivided and/or developed shall be of such nature, size, shape and location that with proper and careful design and development it can be safely used for building purposes without danger to health or risk of fire, flood, erosion, landslide or other menace to the general welfare.
 - (B) Any subdivision shall meet the requirements of the LCRA Highland Lakes Watershed Ordinance, as amended, prior to submitting plans to the City for approval.
 - (C) A Final Plat shall not be recorded until the necessary public utilities and facilities and other required improvements exist or arrangements are made for their provision.

- (D) Buildings, lots, blocks, and streets shall be arranged so as to provide for an attractive and healthful environment and to facilitate fire protection, and provide ample access to buildings for emergency equipment.
- (E) Land shall be subdivided and developed with due regard to topography and existing vegetation with the objective being that the natural beauty and natural resources of the land shall be preserved to the maximum extent possible.
- (F) Existing features which would add value to development or to the City as a whole, such as scenic and special features, both natural and man-made, historic sites and similar assets shall be preserved in the design of the subdivision whenever possible.
- (G) A Final Plat shall maintain a lot density that is consistent with the nature and character of the City of being primarily a single-family residential community.
- (H) Land shall be subdivided and developed to maintain the City's character of being a residential and recreational community with due regard to the building of amenities for residents with commercial lots being kept to a minimum.
- (I) Land shall be subdivided and developed with due regard to the City's existing character when determining design features.

(b) APPLICABILITY

- (1) The provisions of this Ordinance, including design standards and improvement requirements, shall, except as specifically provided otherwise in this Ordinance, apply to all subdivisions of land within the jurisdiction of the City, including but not limited to the following forms of land subdivision and development activity:
 - (A) The division of land into two (2) or more tracts, lots, sites or parcels, any part of which shall contain less than five (5) acres in area when subdivided;
 - (B) The division of land into two (2) or more tracts, lots, sites or parcels any part of which when subdivided shall contain five (5) acres or more in area and will require the dedication or conveyance of any access, public right-of-way, easement, or any public improvement;
 - (C) Land previously subdivided or platted into tracts, lots, sites or parcels, which subdivision was subject to, but not in accordance with, City or county ordinances in effect at the time of such subdividing or platting;
 - (D) The combining of two (2) or more contiguous tracts, lots, sites or parcels for the purpose of creating one (1) or more legal lots in order to achieve a more developable site, or to otherwise replat property in a manner allowed by law, except as otherwise provided herein;
 - (E) Any Planned Development for which two (2) or more lots, tracts, or parcels are designed, established or created for occupancy, use or a building site, for which a

building permit, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements is required by the City;

- (F) The platting of any existing legal deed-divided unplatted lot, parcel, site or tract;
 - (G) Any plat having received approval from the City Council for which said approval has expired; or
 - (H) The dedication of any street through any tract of land, regardless of the area involved.
- (2) A subdivision plat shall not be required:
- (A) When a tract of land is being used for a temporary use, as herein defined;
 - (B) For the division of land into parts greater than five (5) acres or more, where each part has access and no public improvement is being dedicated; or
 - (C) Upon a parcel or tract of land for which a deed was duly recorded with the Llano County Clerk prior to December 20, 2005, or Burnet County Clerk prior to January 24, 2006 (the dates that the City enacted ordinances to initiate plat approval review within the corporate limits of the City), provided that such parcel or tract of land has not thereafter been subdivided into two (2) or more parcels or tracts of land. However, a subdivision plat shall be required where development on the parcel or tract of land occurs in accordance with Section (b)(1)(A) through (b)(1)(H) of this section, and where such development is not related to any farm, ranch, or other agricultural use existing on the effective date of this Ordinance.
- (3) Certification regarding compliance with plat requirements.

On the written request of a developer, a utility provider, or a governing body, and in compliance with the Texas Local Government Code, Section 212.0115, as amended, the Development Services Manager shall make the following determinations regarding the tract of land identified in the request:

- (A) Whether a plat is required under this Ordinance for the tract of land; and
- (B) If a plat is required, whether it has been prepared and whether it has been reviewed and approved by the City Council.

If the Development Services Manager determines that a plat is not required, a written certification of that determination shall be issued to the requesting party. If the Development Services Manager determines that a plat is required and that the plat has been prepared, and has been reviewed and approved by the City Council, the Development Services Manager shall issue to the requesting party a written certification of that determination.

The Development Services Manager shall make a determination within twenty (20) days after the date the written request is received and shall issue a written certification of that determination, within ten (10) days after the date the determination is made, but in no case, after 30 days from the date the written request is received.

- (4) No subdivision plat shall be submitted for approval as a means to circumvent or otherwise avoid any requirement of this Ordinance or any other ordinance of the City.
- (5) An easement that has been established by a separate instrument and does not appear on a recorded plat shall require approval by the City Council in order to be altered or released. An easement that appears on a recorded plat may be altered or released by a replat, prepared in accordance with Section VI of this Ordinance, or by separate instrument approved by the City Council.
- (6) There may be occasions when the City Council deems it appropriate to allow a delay in the implementation of certain elements of this Ordinance. On those occasions, a Development Agreement may be used to reflect authorization for such delay or other appropriate terms.

(c) **CONSTRUCTION AND MAINTENANCE BONDS**

(1) Construction Bonds

- (A) All construction shall be complete within a timely manner but not later than two (2) years after approval of a Final Plat, and in accordance with the terms and specifications contained herein. To ensure such timely completion, the developer shall file a construction bond, or other type of financial assurance acceptable with the City. If a developer chooses to file a construction bond, said bond shall be executed by a surety company authorized to do business in this State, and made payable to the City.
- (B) Unless the City Council determines a different amount, the amount of the bond shall be equal to the total estimated cost, plus ten percent (10%), of construction of roads, streets, street signs, utilities, required drainage structures and all other infrastructure construction.
- (C) The developer and City Council may agree that construction of the roads, streets, street signs, utilities, drainage structures and other infrastructure construction be undertaken in phases. In that case, to ensure such timely completion, the developer shall file a construction bond, or other type of financial assurance acceptable with the City. If a developer chooses to file a construction bond, said bond shall be executed by a surety company authorized to do business in this State, and made payable to City. Unless the City Council determines a different amount, the amount of the bond shall be equal to the estimated cost, plus ten percent (10%), of construction of roads, streets, street signs, utilities, required drainage structures and all other infrastructure construction.
- (D) The construction bond shall be submitted to the City Council with the Final Plat.

- (E) The construction bond shall remain in full force and in effect until all the roads, streets, street signs, underground utilities, required drainage structures and all other infrastructure construction in the subdivision have been completed to the satisfaction of the City Council, and the construction bond has been released by order of the City Council.
 - (F) The construction bond for a phased project shall remain in full force and effect until all the roads, streets, street signs, underground utilities, required drainage structures and other infrastructure construction is completed for that phase to the satisfaction of the City Council and the City Council has released the construction bond.
 - (G) In the event any or all of the streets, roads, drainage and drainage structures, as constructed by the owner, fail to meet the requirements of the foregoing specifications, and the said owner fails or refuses to correct the defects called to his/her attention by the City Council, the unfinished improvements shall be completed at the cost and expense of owner as provided.
 - (H) The City may draw on the construction bond and pay the cost of completing the unfinished improvements if the City determines that the owner has breached the obligations secured by the construction bond or the two (2) year time period for the construction of all required improvements has expired. The City shall refund the balance of the construction bond, if any, to owner. The owner shall be liable for the cost that exceeds the amount covered by the construction bond, if any.
- (2) Maintenance Bond
- (A) To insure roads, streets, street signs, underground utilities, required drainage structures and all other infrastructure construction are maintained to the satisfaction of the City Council, a maintenance bond executed by a surety company authorized to do business in this State, and made payable to the City, shall, as the City Council determines, be substituted for the construction bond at the time of release of said construction bond.
 - (B) The maintenance bond shall be equal to twenty percent (20%) of the estimated cost of all infrastructure construction.
 - (C) The conditions of the maintenance bond shall be that the owner shall guarantee to maintain, to the satisfaction of the City, all of the streets, roads, drainage structures and drainage ditches and channels which have been constructed to specifications with construction security released by the City in a good state of repair for a period of two (2) years from the date of official release of construction security.
 - (D) Periodic inspection of roads, streets, street signs, underground utilities, required drainage structures and all other construction, for which maintenance security is held, will be made by the City during the period of liability covered by the maintenance bond. In the event any or all of the roads, streets, street signs,

underground utilities, required drainage structures and all other construction are not being maintained in a good state of repair, the owner will be so advised in writing and, if after ninety (90) days from the date of the written notice, the owner fails or refuses to repair said items, they shall be maintained at the cost and expense of owner as in said orders provided.

- (E) The City may draw on the maintenance bond and pay the cost of maintaining all of the streets, roads, drainage structures and drainage ditches and channels, if the City determines that the Owner has breached the obligations secured by the maintenance bond. The City shall refund the balance of the maintenance bond, if any to owner after the two year period has expired. The owner shall be liable for the cost that exceeds the amount covered by the maintenance bond, if any.
- (F) The release of any bond shall be by order of the City Council. To request a release the owner who posted the bond in question shall present a written request to release the bond.
- (G) If substantial patching is required during the two-year maintenance period, roads or streets must be resurfaced with a two-course surface treatment in accordance with the General Design Standards of the City.

(d) EXISTING LOTS AND PARCELS

- (1) The minimum required lot area and width, shall be in accordance with the requirements established for the applicable Zone and Classification, except that a lot having less area or width, than required by the standards of the City which was of record with the Llano County Clerk prior to December 20, 2005, or Burnet County Clerk prior to January 24, 2006 (the dates that the City enacted ordinances to initiate plat approval review within the corporate limits of the City), may be used provided that all other requirements of this Ordinance and the applicable Zone and Classification are met.
- (2) No lot of record existing on the effective date of this Ordinance shall be modified in a manner that requires vacating of a plat, replatting, plat amendment, or zoning approval except where the conditions for approval according to §§212.013-015 of the Texas Local Government Code and the City's ordinances apply.
- (3) No block or lot of record existing on the effective date of this Ordinance or amendments hereto, shall be modified in size without approval of a replat or amending plat as set forth herein, except where a public utility or political subdivision acquires a portion of a block or lot by purchase or dedication.
- (4) A parcel or tract of land that has been created out of a recorded block or lot without approval of a replat, and where such block or lot was duly recorded in the office of the appropriate County Clerk prior to the effective date of this Ordinance, may be replatted in accordance with the procedures set forth herein without including in such replat the entire block or lot of which the parcel or tract of land was originally a part.

- (5) No subdivision plat or replat shall be approved if such approval results in the creation of a residual parcel or tract of land that does not meet the minimum requirements set forth by the City or this Ordinance, or where the effect of such approval on an adjacent parcel or tract of land is such that it does not meet the minimum requirements set forth in this Ordinance.

(e) **SPECIAL PROVISIONS**

- (1) The City has the authority to withhold all improvements of any nature, including but not limited to the maintenance of streets and the connection of utilities pursuant to §212.012, Local Government Code, to all additions for which a subdivision plat has not been approved by the City Council and filed with the appropriate County Clerk.
- (2) The City has the authority to withhold the issuance of a building permit for the erection of any building on a newly subdivided parcel of land until all the requirements of this Subdivision Ordinance have been complied with, including installation of, and acceptance by, the City of all public improvements and facilities for the area designated.

III. PROCEDURES FOR PLAT APPROVAL

(a) **PROCEDURE**

- (1) The applicant shall submit to the Development Services Division of the City a complete plat application packet in accordance with the then established filing schedule. Applications for plat approval shall be available in the City offices at #1 Community Drive, Horseshoe Bay. An application for approval of a plat not submitted in accordance with the filing schedule may be subject to disapproval.
- (2) Pursuant to Texas Local Government Code, Chapter 245, as amended, the rights to which an applicant is entitled shall accrue on the filing of an application that gives the City fair notice of the project and the nature of the permit sought. An application is considered filed on the date the applicant mails by certified mail or delivers the application to the following address:

City of Horseshoe Bay
Development Services Department
P.O. Box 7765
#1 Community Drive
Horseshoe Bay, TX 78657

- (3) An application shall expire forty-five (45) days after the date the application is filed if:
 - (A) the applicant fails to provide the documents or other information necessary to comply with the City's technical requirements relating to the form and content of the application; and
 - (B) the City provides the applicant no later than ten (10) business days after the day the application is filed written notice of the failure that specifies the necessary

documents or other information and the date the application will expire if the documents or other information is not provided; and

- (C) the applicant fails to provide the specified documents or other information within the aforesaid forty-five (45) day period.
- (4) The Development Services Manager shall determine if the application for approval of a plat meets all of the content requirements of this Ordinance. An incomplete application will be returned by the Development Services Manager within ten (10) working days following the date of filing. The Development Services Manager shall notify the applicant in writing of the noted deficiencies. Upon correction of the deficiencies, the application may be resubmitted for placement on the City Council agenda.
- (5) Any application for a final subdivision plat, final replat, final amending plat or final vacating plat that has been determined by the Development Services Manager to be complete, will automatically be considered approved by the City if the City Council has not otherwise approved or denied the application by the 30th day after said application has been determined to be complete
- (6) Development Services shall review all plat applications in conjunction with other City departments and utility companies for compliance with this Ordinance and other applicable City codes and regulations.
- (7) An applicant may withdraw an application for approval of a plat prior to the review of the plat by the City Council, by notifying the Development Services Manager in writing.
- (8) When a plat is approved by the City Council, the signed plat shall be submitted by the City for recording with the appropriate County Clerk, along with the appropriate number and format of electronic and paper copies as required, along with the recording fee.
- (9) Any person or persons, jointly or severally, aggrieved by any platting decision of the City Council, may present to a District Court in the applicable county, a petition for writ of certiorari, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within ten (10) days after the final decision of the City Council.

(b) FILING FEES

Fees shall be charged for all plat applications. The fees shall be paid upon the submittal of an application, in accordance with the approved City Council fee schedule and the application shall not be considered complete until such fee has been paid.

IV. PRELIMINARY PLATS

(a) PURPOSE

- (1) The purpose of the Preliminary Plat, (including a Preliminary Replat) is to allow the Development Services Department to review overall platting of the tract and street patterns within the subdivision for conformance with the requirements of this Ordinance.

(b) GENERAL PROVISIONS

A Preliminary Plat is required for the subdivision of a tract of land into two (2) or more lots. Approval of a Preliminary Plat is required prior to the consideration of the Final Plat by the City Council.

(1) Procedures:

- (A) Formal application for Preliminary Plat approval shall be made by the subdivider or his/ her agent in the manner prescribed by Development Services and shall be processed and considered in accordance with Section III of this Ordinance.

(2) Content:

A Preliminary Plat shall be signed and sealed by a surveyor and include the following items:

- (A) Location map showing the location of the subdivision in relation to the City.
- (B) Name, address, and telephone number of the subdivider, record title owner, engineer, and surveyor.
- (C) Proposed name of the subdivision, subject to City approval.
- (D) Dashed in names and approximate layouts of contiguous subdivisions and the owners of contiguous parcels of unsubdivided land, and an indication of whether or not contiguous properties within 200 feet of the proposed site are platted.
- (E) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.
- (F) The words "Preliminary Plat" in the title block.
- (G) The location and approximate dimensions, description, and name of all proposed streets, subject to City and County approval, common areas, parks, public areas, playgrounds or other similar uses, reservations, easements, visibility easements or rights-of-way, blocks, lots and watercourses.
- (H) Date of preparation, scale of plat, and north arrow.

- (I) Topographic information shall include contours at two (2) foot intervals.
 - (J) Location of City limits line, the outer border of the City's ETJ land, survey and abstract lines, or independent school district boundaries where applicable, and zoning district boundaries, if they traverse the subdivision, form part of the boundary of the subdivision, or are contiguous to such boundary.
 - (K) A number to identify each lot and block, and approximate square footage or acreage of all lots.
 - (L) Identify any flood plains within the subdivision.
 - (M) All physical features of the property to be subdivided, including locations and size of all watercourses, ravines, bridges, culverts, existing structures, drainage area in acres or areas draining into subdivision, and other physical features pertinent to the proposed subdivision.
 - (N) The outline of wooded areas and the location of individual trees 18" in diameter or larger shall be shown for properties proposed to be dedicated for public purposes.
 - (O) The City signature block as seen in Appendix C.
 - (P) Phasing plan if the subdivision is to be constructed in phases.
- (3) When a Preliminary Plat is approved for a single-family residential subdivision, and the plat includes developable property for other uses, (school sites, church sites, etc.), those areas shall be platted and filed for record in conjunction with the platting process for the single family area.

(c) APPROVAL PROCESS

- (1) The Development Services Department will notify the applicant of the City Council's action approving or disapproving the Preliminary Plat.
- (2) Approval of a Preliminary Plat by the City Council shall be deemed an expression of approval of the layout submitted on the Preliminary Plat as a guide to the final engineering of streets, water, sewer, and other required improvements and utilities and to the preparation of the Final Plat.
- (3) Approval of a Preliminary Plat shall not constitute automatic approval of the Final Plat, nor be considered authorization to begin construction.
- (4) Approval of a Preliminary Plat shall not constitute a guarantee or warranty, either implied or otherwise that the requirements of other applicable codes and ordinances of the City have been met.

- (5) It shall be the responsibility of the subdivider to ensure that all applicable requirements of the City relative to the subdividing and development of property have been met.

(d) REVISIONS TO APPROVED PRELIMINARY PLATS

- (1) Minor Revisions to Approved Preliminary Plats. The Development Services Manager may administratively approve minor revisions to approved Preliminary Plats. A minor revision is one that:

- (A) Changes the lot size or configuration provided that the total number of lots does not increase; or
- (B) Changes a local street width, length or alignment; or
- (C) Changes a utility or access easement.

- (2) Major Revisions to Approved Preliminary Plats. The City Council may approve major revisions to approved Preliminary Plats. A major revision may include, but is not limited to the following:

- (A) An increase in the number of lots;
- (B) A change to the street layout; or
- (C) A modification of the parkland.

(e) EXPIRATION OF PRELIMINARY PLATS

The approval of a Preliminary Plat shall expire one (1) year from the date of approval unless a Final Plat for a portion of the Preliminary Plat has been approved and recorded, in which case, the Preliminary Plat is extended one (1) additional year from the date each additional Final Plat is recorded.

(f) PHASED PRELIMINARY PLAT

- (1) Where a proposed subdivision is to be developed in phases, or where a tract of land containing forty (40) acres or more is to be subdivided and will contain an internal street system, the subdivider shall be required to submit, and receive approval by the City Council of a phased Preliminary Plat that includes the entire tract.
- (2) The purpose of a phased Preliminary Plat is to allow the City Council to review the subdivision in relation to future phases of the development, existing and proposed subdivisions adjacent to the site, and future City service requirements.

- (3) Content:
- (A) The phased Preliminary Plat shall be drawn at a scale of not less than one (1) inch equals five hundred (500) feet on a topographic map. The phased Preliminary Plat shall include all land under control of, or owned by, the developer, and contain or have attached the following:
 - (B) Names and addresses of the subdividers, owner of record, engineer and surveyor;
 - (C) Proposed name of the subdivision;
 - (D) Location in relation to the rest of the City and boundaries of the proposed subdivision;
 - (E) Schematic layout of the entire tract and its relationship to adjacent property and existing adjoining development;
 - (F) The successive order or phasing of the development of the tract;
 - (G) Proposed major categories of land use and current zoning;
 - (H) Number of dwelling units and population densities, where applicable;
 - (I) Street layout;
 - (J) Location of sites for parks, schools and other public uses as shown on the Comprehensive Development Plan, where applicable;
 - (K) Significant natural features, including floodplains, floodways, and wooded areas;
 - (L) Significant existing man-made features such as buildings, utilities or physical features.
- (4) The overall layout, if approved by the City Council, shall be attached to and filed in the permanent records of Development Services. All subsequent Final Plats shall be in accordance with the approved phased Preliminary Plat; provided, however, that the City Council may authorize minor adjustments to the approved phased Preliminary Plat where the City Council determines such adjustments are consistent with the intent and general layout of the approved phased Preliminary Plat. Where the Final Plat deviates from the approved phased Preliminary Plat to the extent that the City Council finds such deviation to be significant and not consistent with the intent and general layout of the approved phased Preliminary Plat, such Final Plat shall not be approved until it reflects the originally approved phased Preliminary Plat, or a phased Preliminary Plat has been approved in accordance with this section. However, the City Council shall not change such approved overall layout unless the subdivider agrees to such change or the City Council finds that:

- (A) adherence to the previously approved overall layout will hinder the orderly subdivision of land in the area in accordance with the provisions of this Ordinance; and
 - (B) changes to the previously approved overall layout will not be detrimental to the public health, safety or general welfare.
- (5) Approval of a phased Preliminary Plat shall be effective for eighteen (18) months. Approval may be extended for one (1) year periods by consent of the City Council, at the request of the developer.
 - (6) If the phased Preliminary Plat is attached as an exhibit to the amending ordinance creating a Planned Development Zone, such plan shall be considered a condition of the zoning of the tract.
 - (7) Approval of a phased Preliminary Plat shall not constitute automatic approval of the Final Plat. The Developer shall be required to submit a separate Final Plat, including construction plans, for each unit or phase of development.
 - (8) For the purposes of meeting platting procedure requirements, a phased Preliminary Plat shall be treated the same as a Preliminary Plat.

V. FINAL PLATS

(a) PURPOSE

The purpose of the Final Plat (including a Final Replat) is to allow Development Services to review the overall platting of the tract and street patterns within the subdivision for compliance with this Ordinance, and for compliance with an approved Preliminary Plat.

(b) GENERAL PROVISIONS

(1) Final Plat Requirements:

- (A) A Final Plat is required for the creation of a legal lot of record.
- (B) If so desired by the developer, the Final Plat may constitute only that portion of the approved Preliminary Plat that the developer proposes to record and then develop. Provided, however, that such portion conforms to all requirements of these regulations.
- (C) No Final Plat, for which a Preliminary Plat was required, shall be acted on by the City Council until a Preliminary Plat conforming to all the City's stipulations has been submitted and approved by the City Council.

(2) Procedures:

Formal application for Final Plat approval shall be made by the subdivider in the manner prescribed by the City. An application for Final Plat approval shall be processed and considered in accordance with Section III of this Ordinance. The Final Plat shall be in accordance with the approved Preliminary Plat; provided, however, that the City Council may authorize minor adjustments to street alignments, length, and lot lines where the City Council determines such adjustments are consistent with the intent and general layout of the approved Preliminary Plat. Where the Final Plat deviates from the approved Preliminary Plat to the extent that the City Council finds such deviation to be significant and not consistent with the intent and general layout of the approved Preliminary Plat, such Final Plat shall not be approved until it reflects the originally approved Preliminary Plat, or a new Preliminary Plat has been approved in accordance with Section IV of this Ordinance.

(3) Content:

The Final Plat shall include the following items:

- (A) The Final Plat and accompanying data shall conform to the Preliminary Plat, if applicable, as approved by the City Council, incorporating any and all changes, additions, modifications, alterations, and corrections stipulated by the City Council.
- (B) The Final Plat shall contain all of the features required for Preliminary Plats in Section IV of this Ordinance, and shall bear the seal of a registered Texas Surveyor.
- (C) Engineering plans prepared by an Engineer shall be required when property is platted for the purpose of immediate development. Engineering plans shall include grading and drainage plans, water and sewer plans, and other plans as required by the City.
- (D) In addition to the various requirements for the Preliminary Plat, the Final Plat shall also include the following:
 - (i) Existing Features:
 - (a) The exact location, dimension, name, and description of all existing or recorded streets, reservations, easements or public rights-of-way within the subdivision, intersecting or contiguous with its boundary or forming such boundary, or located in close proximity to the site, with accurate dimensions, bearings or deflecting angles and radii, area and central angle, chord bearing and distance, tangent distance and length of all curves, where appropriate.
 - (ii) Proposed Features:
 - (a) The exact location, dimensions, description, and names of all proposed streets, common areas, parks, public areas, playgrounds or other similar uses, reservations, easements or rights-of-way, blocks,

lots and significant sites within the subdivision, with accurate dimensions, bearing or deflecting angles and radii, area and central angles, chord bearing and distance, tangent distance and length of all curves, where appropriate.

- (E) The names of all adjoining subdivisions, the dimensions of all abutting lots, lot and block numbers and accurate reference ties to courses and distances of at least two (2) recognized land corners shall be shown. If adjacent property is not platted, note "NOT PLATTED" and the owner's name.
- (F) All approved street names shall be shown.
- (G) All abstract lines shall be shown and labeled.
- (H) The location and dimension of any easement, designated by use, adjoining or abutting the subdivision.
- (I) Description of the subdivision by metes and bounds shall be shown.
- (J) Point of beginning or commencement shall reference an original abstract or existing subdivision property corner. Primary control points or descriptions and ties to such control points to which all dimensions, angles, bearings, block numbers and similar data shall be referenced.
- (K) The Final Plat shall show a title including the approved name of the subdivision, the names, addresses and phone numbers of the owner and engineer or surveyor, scale and location of the subdivision with reference to original land grant or survey, abstract number, and a north arrow depicting true or magnetic north, and noting whether true or magnetic north is used.
- (L) Show the one hundred (100) year floodplain limits based on ultimate watershed development, as determined by the City, or note that such property is not within the floodplain limits, if applicable. Finished floor elevations of one (1) foot above the one hundred (100) year flood plain elevation shall be shown on the plat, where applicable.
- (M) Location and description of monuments, which shall be placed at each corner of the boundary survey of the subdivision, shall be shown as described in Section XI, (c).
- (N) Lot and block numbers shall be shown.
- (O) The square footage or acreage of all lots which are not rectangular shall be shown in a table.
- (P) Certificates of the owner, surveyor, a dedication statement, City signature blocks and other standard notes shall be placed on the Final Plat, as presented in Appendix C.

- (4) Standard Notes:
 - (A) "Selling off a portion of this subdivision by metes and bounds description, without a replat being approved by the City of Horseshoe Bay, is a violation of City Ordinance and state law and is subject to fines and withholding of utilities and building permits."
- (5) Dedication Statement as depicted in Appendix D
- (6) A signed Certificate of Insurance, satisfactory to the City, showing compliance with the requirements of this section shall be furnished to the City at the time all improvements are accepted by the City. Such Certificate shall provide thirty (30) day written notice to the City prior to the cancellation or modification of any insurance referred to therein. Language shall be placed on the subdivision Final Plat indicating that a signed Certificate of Insurance shall be furnished to the City.

(c) APPROVAL PROCEDURE

- (1) City Council Action:

The City Council shall review the Final Plat and shall either approve, approve with minor conditions, or disapprove the Final Plat within thirty (30) days after the filing of a completed application. The City Council may approve a written or verbal request submitted by the developer to table a Final Plat application to a specific future City Council meeting where the developer waives its right to having the Final Plat acted upon within the required thirty (30) days as set forth in the Local Government Code, Section 212.009(a). The City Council may not table action on a Final Plat without the consent of the developer and a waiver of rights.

- (2) Notification of Action Taken:

Within ten (10) working days after action is taken by the City Council, the Development Services Manager shall issue to the developer a certificate as required by Section 212.0115 of the Texas Local Government Code stating that the Final Plat has been reviewed and approved by the City Council.

(d) RECORDING PROCEDURE

- (1) In order for the approved Plat to be recorded, the Developer must submit the following to the Development Services Manager:
 - (A) An abstractor's certificate which shall state the names and addresses of all current owners and current lien holders of the property described in the Plat. The abstractor's certificate shall be dated no earlier than thirty (30) days prior to a request for recordation of the Plat;

- (B) An acknowledged signature on the Plat by the current owner of the land being platted if the current owner is different than the owner at the time the Final Plat was approved;
- (C) Current original tax certificates;
- (D) Llano or Burnet County affidavit certifying tax certificates; and
- (E) All required fees.

(e) EXPIRATION OF FINAL PLAT

The approval of a Final Plat shall expire one (1) year from the date of approval if commencement of construction of the project approved therein is not commenced.

VI. REPLATS

(a) PURPOSE.

- (1) The purpose of a Replat is to allow the City Council to review the resubdivision of one or more lots, blocks or additions for conformance with the requirements of this Ordinance.

(b) GENERAL PROVISIONS.

(1) Replat Requirements:

- (A) A Replat is required to alter or create new lot lines, or alter any other aspects of a recorded Plat, and shall meet the requirements of Chapter 212 of the Texas Local Government Code, as amended.
- (B) A Replat is also required to add or remove an easement. This requirement may be waived at the discretion of the City Council.

(2) Procedure:

- (A) Formal application for Replat approval shall be made by the subdivider or his/ her representative in the manner prescribed by Development Services Department and shall be processed and considered in accordance with Section III of this Ordinance.
- (B) Notice Requirement for Replats. Notice of a Replat public hearing shall be given, not less than fifteen (15) days before the date set for the hearing, by publication and by written notice approved by the Development Services Manager and forwarded by the applicant to the owners of property lying outside of the Replat boundaries and within 200 feet of those boundaries as indicated on the most recently approved municipal tax roll; or in the case of a subdivision within the ETJ regulated by the City, the most recently approved County tax roll of the property upon which the Replat is requested. The written notice may be delivered by depositing the notice

properly addressed with postage prepaid, in a post office or postal depository within the municipal boundaries. The applicant is also required to post one or more signs on the affected property as required by the Development Services Department.

(3) Content:

- (A) The replat shall be in accordance with the Final Plat requirements of Section V of this Ordinance, with the following additional requirements:
 - (i) Exact name of previous plat, which shall be retained in the title of the Replat;
 - (ii) Blocks, lots and portions thereof which are being replatted, shall be identified;
 - (iii) Volume and page number where the previous plat was recorded, shall be identified;
 - (iv) Original plat information being deleted, abandoned, or changed by the Replat, (lots and blocks, rights-of-way, etc.), shall be shown lightly sketched or dotted on the drawing with a note of explanation; and
 - (v) The word "Replat of _____" shall be shown in the title block.

VII. MISCELLANEOUS PLATS AND ABANDONMENTS

(a). PURPOSE

The purpose of these submittals is to allow the City Council to review amending plats, vacating plats, and other miscellaneous separate instruments for compliance with this Ordinance.

(b) AMENDING PLAT

- (1) An amending plat may be applied for if an error or omission in a previously recorded plat meets one or more of the following conditions:
 - (A) To correct an error in any course or distance shown on the prior plat.
 - (B) To add any course or distance that was omitted on the prior plat.
 - (C) To correct an error in the description of the real property shown on the prior plat.
 - (D) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibility for setting monuments.
 - (E) To show the property location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat.

- (F) To correct any other type of scrivener or clerical error or omission as previously approved by the City Council; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats.
 - (G) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat.
 - (H) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement.
 - (I) To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that the amendment does not attempt to remove recorded covenants or restrictions; or increase the number of lots.
- (2) Procedure:
- (A) Formal application for amending plat approval shall be made by the subdivider or his/ her agent in the manner prescribed by the City, and shall be processed and considered in accordance with Section III of this Ordinance.
- (3) Content:
- (A) The amending plat shall be in accordance with the Final Plat requirements of Section V of this Ordinance, with the following additional requirements:
 - (i) A note identifying what element(s) of the plat is (are) being amended;
 - (ii) A graphic representation encircling the area of the plat being amended; and
 - (iii) The words "Amending Plat" shall be shown in the title block.
- (c) VACATING PLAT**
- (1) A vacating plat may be applied for to vacate a previously recorded plat, in accordance with the following conditions:
 - (A) The owner may vacate a plat before any lots within the original subdivision are sold;
or

- (B) If lots within the subdivision have been sold, the original plat or portions of the original plat may be vacated only upon the application of all of the owners of the lots within the original plat.
- (2) Procedure:
 - (A) Formal application for Vacating Plat approval shall be made by the subdivider or his/her agent in the manner prescribed by the City, and shall be processed and considered in accordance with Section III of this Ordinance.
- (3) Content:
 - (A) The vacating plat shall be in accordance with the Final Plat requirements of Section V of this Ordinance, with the following additional requirements:
 - (i) A note identifying what is being vacated of the original plat shall be indicated; and
 - (ii) The words "Vacating Plat" shall be shown in the title block.

(d) ABANDONMENT OF PUBLIC RIGHTS-OF-WAY

- (1) Abandonment of City-owned public right-of-way may be applied for under the following conditions:
 - (A) The request shall be initiated by an abutting property owner of the right-of-way to be abandoned.
 - (B) All property owners abutting such right-of-way shall be notified by the applicant of such request by certified letter. A written response from each abutting property owner must be received by the City prior to staff review.
 - (C) All public utilities must consent to the abandonment.
 - (D) A summary of how the City acquired the right-of-way to be abandoned shall be provided by the applicant.
 - (E) A certified appraisal of the value of the land to be abandoned shall be submitted to the City by the applicant.
 - (F) An explanation from the property owner which identifies why the proposed use of the land to be abandoned is of more benefit to the community under private ownership than retention of the land as public right-of-way shall be provided.
 - (G) All property owners abutting such right-of-way must hold harmless, and indemnify the City against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.

- (H) All of the abandoned right-of-way must be purchased by the abutting property owners within six (6) months of City Council approval.
 - (I) A plat or replat shall be submitted to the City combining the abandoned right-of-way into the adjacent platted lots. Such plat or replat shall be submitted to the City within six (6) months of City Council approval.
 - (J) Abandonment of right-of-way shall not be considered complete until such plat or replat has been prepared in accordance with this Ordinance, and approved by the City Council, and filed with the appropriate county.
- (2) Procedure:
- (A) Formal application for right-of-way abandonment shall be made in the manner prescribed by Development Services and shall be processed and considered in accordance with Section III of this Ordinance.
 - (B) The City Council shall have the final authority to approve or deny an abandonment request.
 - (C) Approval of abandonment is valid for six (6) months from the date of City Council approval. Re-approval of abandonment by the City Council may be applied for at any time subsequent to the date such abandonment becomes invalid. If the City Council should deem changes necessary in the re-approval of abandonment in light of new or significant information or requirements, it shall so inform the applicant.
- (3) Content:
- (A) The abandonment document shall be in accordance with the Final Plat requirements of Section V of this Ordinance, with the following additional requirements:
 - (i) A note identifying what is being abandoned shall be shown; and
 - (ii) The abandonment document shall be filed for record, as an appendix to the plat or replat.
- (4) Abandonment of Fire Lanes:
- (a) In instances where fire lanes are depicted on a plat of record, the owner of the property may submit a request for a certificate of abandonment to remove the fire lane(s) from the plat.
 - (b) The request shall include an accurate exhibit of the proposed abandonment and reference the exact name of the plat, including volume and page number where the plat was recorded.

(c) Notwithstanding any action regarding the certificate of abandonment of a platted fire lane, fire lanes shall be provided in accordance with the Uniform Fire Code of the City of Horseshoe Bay, when such is adopted by City Council.

VIII. PARKLANDS AND RECREATIONAL FACILITIES

(a) PURPOSE

This Section is adopted to provide recreational and open space areas in the form of community parks, hiking and biking trails, tennis courts, swimming pools, golf courses, and similar facilities in all significant subdivisions to be developed.

(b) SET ASIDE AND DEVELOPMENT

- (1) The developer of a residential subdivision or addition of more than forty (40) acres shall provide for the parkland and recreational facility needs of the community by setting aside and developing land for such purposes.
- (2) The amount of parkland to be set aside and used for these purposes in the subdivision or addition shall be as follows:
 - (A) Single-family residential areas: 1.0 acre per 50 dwelling units
 - (B) Multiple-family residential areas: 1.0 acre per 90 dwelling units
- (3) Recreational facilities may be developed in addition to or in lieu of parkland areas, as follows:
 - (A) A community swimming pool designed to accommodate at least 50 persons shall be equivalent to one acre of parkland.
 - (B) Four individual tennis courts shall be equivalent to one acre of parkland.
 - (C) Other types of recreational facilities, such as squash, racquetball or handball courts, fitness centers, and similar types of facilities may be substituted for parkland on a similar basis, subject to final approval by the City Council.
 - (D) Golf course facilities (as defined by the Zoning Ordinance), conservation easements, or wildlife easements shall be acceptable on an acre for acre basis, subject to final approval by the City Council.
- (4) The Developer shall provide drawings and data depicting such parklands and recreational facilities within the Construction Plans required by Section XI, Section (b), indicating the proposed parkland and recreational facility improvements and amenities, and shall provide, through Restrictive Covenants, Deed Restrictions, or similar regulations, for the upkeep, care, and maintenance of same by a Property Owners Association or similar entity with adequate resources for those purposes.

IX. PLANNED DEVELOPMENT ZONES

(a) PURPOSE

- (1) In certain instances, the purposes of this Ordinance may be achieved through the use of planned developments which do not conform in all respects to the land use pattern designated in the Comprehensive Development Plan, or the subdivision requirements of this Ordinance. A Planned Development Zone (PD) may include a combination of different dwelling types and/or a variety of land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity, and which can be considered as a sustainable development, potentially providing multi-purpose uses within a single project.
- (2) For purposes of this Ordinance, a Planned Development Zone shall have the same meaning as provided for in the Zoning Ordinance.

(b) SUBDIVISION REQUIREMENTS FOR A PLANNED DEVELOPMENT ZONE

- (1) It is the intent of this Ordinance that subdivision review under this Ordinance is carried out simultaneously with the review of a Planned Development Zone.
- (2) The Preliminary Plat and Final Plat shall be in conformance with the requirements of the approved Planned Development Zone before they may be approved by the City Council. Where a development plan, site plan, or other mechanism showing street layouts is made a part of the amending ordinance creating such Planned Development Zone, the Preliminary Plat, Final Plat and construction plans shall be in accordance with such plan or layout.
- (3) This Ordinance contains regulations that apply to the design of streets, utilities and open spaces. In any proposed Planned Development Zone for which the provisions of this Ordinance are varied, written recommendations from Development Services shall be provided to the City Council as part of their consideration of approval of such proposed Planned Development Zone and variance to this Ordinance.
- (4) Procedure:
 - (A) Formal application for a development plan approval shall be made by the subdivider or his/her agent in the manner prescribed by the Development Services Department, and shall be processed and considered by the City Council.
 - (B) Review and consideration by the City Council shall proceed simultaneously and independent of any related requirement of this Subdivision Ordinance.
- (5) Development Plan and Specifications - The development plan required under this section shall contain such information as required under the Zoning Ordinance and shall include the following:

- (A) A survey of the development area by a registered land surveyor with a recordable legal description, including all existing utilities and recorded easements.
- (B) A site plan showing location of all structures, all other features to be constructed and all other uses of land, to scale, and with sufficient detail to determine the extent of each use of said structures and land.
- (C) A topographic map with a contour interval of not more than 1 inch = 2 feet and sufficient spot elevations to determine the nature of the grade in the proposed development.
- (D) Building plans in sufficient detail such that the use of each floor can be determined and the bulk of the building and the aesthetic nature of the building may be determined.
- (E) A planting plan sufficient in detail to indicate the nature of all landscaping to be done in the proposed development.
- (F) A statement of the various phases, if more than one phase is intended, by which the development is proposed to be constructed or undertaken, and the time limit of the completion of each phase, together with a description of the real property to be included in each phase. If more than one phase is proposed, a site plan shall be furnished, showing the physical location of each phase.
- (G) A statement of the proposed changes, if any, in locations of streets and any proposed street closings or vacations.
- (H) A statement related to the adequacy of public facilities and utilities.
- (I) A statement of the proposed method of financing the development in sufficient detail to evidence the probability that the Developer will be able to finance or arrange to finance the development.

X. PRIVATE AND PUBLIC STREETS

(a) GENERAL

- (1) The City shall not repair, maintain, install or provide any streets or roads in any subdivision for which a Final Plat has not been approved and filed for record, nor shall the City repair, maintain, or install any streets or roads until such time as the roads or streets have been dedicated to and accepted by the City.
- (2) Residential subdivisions shall be developed with private streets to be dedicated in the future as public streets.
- (3) Private streets may become public streets by dedication to the public use although not maintained by the City.

(b) DEDICATION OF STREETS, MUNICIPAL ACCEPTANCE AND MAINTENANCE PRIOR TO ACCEPTANCE

- (1) Each Final Plat shall contain a statement, as shown in Appendix D signed by the property owner(s) and acknowledged before a Notary Public as to the authenticity of the signatures, stating that the property owner(s) adopts the plat as shown, described and named, and that he/she does dedicate, in fee simple, to the public use forever the streets, rights-of-way and easements shown on the plat, subject to the acceptance of such dedication by the City through a separately filed instrument of acceptance filed for record in the deed records of Llano or Burnet County, as applicable.
- (2) Until such time, if ever, that the City Council votes to accept such dedicated streets, rights-of-way and easements, ownership of same and responsibility for maintenance thereof shall remain with the Property Owner's Association of the Subdivision.

(c) DESIGN AND CONSTRUCTION STANDARDS

- (1) All streets, sidewalks, drainage ways, and water and sewer line improvements shall be designed, placed and constructed in accordance with the General Design Standards of the City and all other applicable standards as prescribed by the City.
- (2) All streets are to be paved with asphalt or concrete and be curbed with either ribbon or full curbs.
- (3) There are five types of street specifications:
 - (A) Arterial
 - (B) Collector Streets (Boulevard is a special collector street)
 - (C) Local Streets
 - (D) Cul-de-sacs
 - (E) Eyebrows
- (4) Arterial streets are often primary cross town streets of a community, connecting neighborhoods, business districts, open space, schools, etc. composed of multiple lanes of traffic. Right-of-way width is a minimum of 120 feet, with a minimum lane width of 12 feet.
- (5) Boulevards are collector streets that are composed of two one-way streets separated by a median. Right-of-way width is a minimum of 100 feet. Minimum median width is 10 feet. Minimum paved street width of each side of the boulevard is 24 feet from curb to curb.

- (6) Collector streets (other than boulevards) shall have a minimum right-of-way width of 80 feet and curb to curb paving width of at least 30 feet.
- (7) Local streets shall have a minimum right-of-way width of 60 feet and curb to curb paving width of at least 24 feet.
- (8) Cul-de-sacs shall be a maximum length of 600 feet. The right-of-way for the circle shall be a minimum of 85 feet in diameter with a paved diameter of a minimum 45 feet. The street right-of-way shall be a minimum of 60 feet and curb to curb paving width of at least 24 feet.
- (9) “Eyebrow” circles are only allowed on a local street with speed limit of 30 miles per hour. The speed limit through eyebrow circles shall be 20 miles per hour and shall be posted with standard speed limit signage. The minimum centerline radius for the eyebrow shall be 72 feet. From the point of intersection of the centerlines of the street sections leading into the turn, the radius to the right-of-way shall be 55 feet and the radius to the edge of the pavement shall be 35 feet. The return radius of the eyebrow shall be 55 feet. The interior angle of the eyebrow shall be between 80 and 100 degrees.
- (10) For subdivisions that border on existing streets that do not meet the above requirements for right-of-way or paving, the developer is required to dedicate enough land adjacent to the existing road to bring it to the above right-of-way specifications and perform additional paving as required to meet the above specifications.
- (11) Water lines, sewage lines and other utilities shall be installed prior to road pavement installation.
- (12) General road design needs to allow for:
 - (A) Major thoroughfare passage through and around the subdivision.
 - (B) Continuation of streets that lead into the new subdivision and future continuation of streets beyond the subdivision.
 - (C) No dead end streets except for stubs planned for future expansion.
 - (D) Intersection of streets at essentially ninety-degree angles.
 - (E) Maximum and minimum grading.
 - (F) Street jogs shall be avoided.
 - (G) No half streets are permitted.
 - (H) Proper drainage of water away from the street and away from adjacent property.
 - (I) Control signs, guardrails and other safety features as good design dictates.
 - (J) Developer provided street signs consistent with City design for all intersections.

- (K) Street names and numbers which must meet 911 requirements.
- (L) Burying of utilities such as water, sewage, electricity, telephone, cable or others in either (or both) the property easement or the right-of-way, but if in the right-of-way no more than three feet from the property line. Utilities shall be buried to a minimum depth of thirty (30) inches.
- (M) Provision by the developer of uniform traffic control signs, guard rails and other safety features as recommended by the developer's engineering firm.
- (N) Continuation of roads and streets in an adjoining subdivision that dead-end at the property line of a new subdivision, to continue through the new subdivision. Where no adjacent connections are platted, the roads and streets in the new subdivision must in general be the reasonable projections of roads and streets in the adjacent subdivided tract. All roads and streets in a new subdivision shall be platted so that a continuation of said roads and streets may be made in other subdivisions in the future.
- (O) No "low water crossings" of streams or any areas where water flows, or may flow during storm events, unless waived by the City Council.
- (P) No installation of any further water, sewage or utility lines, on rights-of-way unless expressly permitted in writing by the City, once road or street construction has been completed.

(d) PRIVATE STREETS AND EASEMENTS

- (1) An easement encompassing the private street or right-of-way shall be granted to the City for ingress and egress and providing unrestricted use of the property for utilities, including water and sewer utilities, and their maintenance. The right shall extend to all utility providers, including telecommunication companies operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection, animal control and code enforcement.
- (2) City Council may deny the creation of a private street if it makes a finding of fact, based upon the evidence provided, that it would:
 - (A) Negatively affect traffic circulation on public streets; or
 - (B) Impair access to property either on-site or off-site of the subdivision; or
 - (C) Impair access to or from public facilities, including schools, parks, and libraries, or
 - (D) Delay the response time of emergency vehicles.

(e) PRIVATE STREET CONSTRUCTION AND MAINTENANCE COSTS; INSPECTIONS

- (1) The City has no obligation to pay for any portion of the cost of constructing or maintaining a private street.
- (2) All City regulations relating to shared improvements costs shall be in accordance with this Ordinance.
- (3) The City may periodically inspect private streets and require repairs necessary to insure emergency access.

(f) SIGNS

- (1) All private traffic signs and markings shall conform to the Texas Manual on Uniform Traffic Control Devices, as amended.
- (2) The entrance to each private street shall be marked with a sign stating the street's name as approved by the City Council.

(g) ACCESS PROVISIONS FOR GATED COMMUNITIES

- (1) Guard houses, access control gates, and cross arms may be constructed within a "street right-of-way" (sometimes referred to as a "street lot") which is owned by the POA. All "street rights-of-way" shall be encompassed by an easement as contained in Section (d) (1), above. All restricted access entrances must be manned 24 hours every day, or provided with an alternate means of ensuring access to the Subdivision by the City and other utility service providers with appropriate identification.
- (2) If the POA fails to maintain reliable access as required to provide City services, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the POA.

(h) ENTRANCE DESIGN STANDARDS

- (1) Any private street with an access control gate shall have a minimum uninterrupted pavement width of twenty-four (24) feet at the location of the access control device. All restricted access gates shall be approved by the Fire Department and meet access requirements for emergency vehicles.
- (2) Overhead barriers shall not be allowed.

(i) WAIVER OF SERVICES

- (1) The Subdivision Final Plat, property deeds, and POA documents shall note that certain City services shall not be provided on private streets. Among the services that will not be provided are: street maintenance, routine police patrols, unless requested by the POA, enforcement of traffic and parking ordinances and preparation of accident reports.

Depending on the characteristics of the proposed development, other services may not be provided.

(j) PETITION TO CONVEY POA OWNED STREETS TO THE CITY

Notwithstanding the provisions provided in Section B above, a petition to convey a POA owned street to the City may be submitted by a POA in accordance with the following requirements:

- (1) The POA documents shall allow the POA to request the City to accept such streets and the associated rights of way.
- (2) The POA shall present such request to the City Council for its consideration. Should the City Council elect to accept such streets, it shall direct the City to prepare and record such acceptance documents as it determines necessary.

(k) PRIVATE STREET CONVEYANCE – CITY TO BE HELD HARMLESS

- (1) Language shall be placed on the subdivision Final Plat whereby the POA, as owner of the private streets and appurtenance, agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility for damages to the private street occasioned by the reasonable use of the private street by the City, governmental entity or public utility; for damages and injury (including death) arising from the condition of said private street; for damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and for damages and injury (including death) arising out of any use of the Subdivision by the City, government entity or public utility. Further, such language shall provide that all lot owners shall release the City, governmental entities and public utilities from such damages and injuries.
- (2) The indemnification contained in this paragraph applies regardless of whether or not such damages and injury (including death) are caused solely by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents.
- (3) The POA shall provide general liability insurance in the amount of not less than \$300,000 per occurrence and \$500,000 aggregate. Such insurance shall protect the POA and the City from any claim, suit or demand resulting from any activity by the City within the Subdivision, including the operation, maintenance or repair of water, sewer and drainage facilities. The insurance shall be occurrence based and name the City an additional insured. The insurance shall not include any exclusions that would deny coverage from the operation of sewer lines.

XI. CONSTRUCTION OF SUBDIVISION IMPROVEMENTS

(a) GENERAL

- (1) The developer shall prepare, or have prepared, and submit three (3) copies in accordance with the requirements of the Development Services Division, of the complete engineering

plans of streets, screening walls, curbs and gutters, storm sewers and drainage structures, water and sanitary sewer improvements, telecommunications, electric, and natural gas service systems for the area covered by the plat.

- (2) The developer shall have such plans prepared by an Engineer, subject to approval of the plans by the City.
- (3) The Development Services Department shall review the plans and specifications, and, if approved, shall mark them approved and return one (1) set to the developer. If not approved, the plans shall be marked with the objections noted and returned to the developer for correction.
- (4) No building permits shall be issued for any permanent structure in the Subdivision until the Engineering Plans have been approved and signed off by the City.
 - (A) After approval of the Final Plat and final construction plans, the developer shall install the facilities in accordance with such approved plans. The City Inspector or his/her designee shall inspect the installation of the improvements. Such construction shall be rejected only if it fails to comply with the standards and specifications contained or referred to herein and as otherwise established by the City.
 - (B) The City Inspector shall approve for the City the title, use, and maintenance of the public improvements where:
 - (i) Such improvements have been found to be installed in accordance with the approved subdivision plat and construction plans; and
 - (ii) Such improvements have been completed, and have been inspected and approved by the City Inspector; and
 - (iii) "As-Built" plans, mylars, and fees have been submitted in the manner required by the Development Services Department; and
 - (iv) The inspection fee has been paid in the amount required by the City, prior to scheduling a pre-construction meeting.
- (5) All improvements required herein shall be constructed in accordance with the standards prescribed by the City prior to acceptance of the subdivision by the City.

(b) CONSTRUCTION PLANS

- (1) No construction work shall begin on the improvements in any proposed subdivision prior to approval of the final construction plans by the Development Services Department.
- (2) Engineering plans showing details of streets, culverts, bridges, storm sewers, water mains, sanitary sewers and all engineering details, other than buildings, of the proposed subdivision shall be submitted to the Development Services Department along with the Final Plat of the subdivision.

- (3) Plans shall be prepared by an Engineer and shall conform to the General Design Standards of the City. The required copies of the final paving and utility plans, 24" x 36" in sheet size, shall be submitted to, and in the manner prescribed by the Development Services Department, including:
- (A) Streets, sidewalks, and monuments:
 - (i) Required copies of plans and profiles of all required streets, sidewalks, crosswalk ways and monuments shall be provided. The right-of-way and paved width of all streets and street names shall be shown, including their top of curb grade and distances with the elevations indicated at all intersections and grade breaks. Such plans shall show the location of all proposed curbs and gutters.
 - (B) Sanitary sewer lines:
 - (i) Required copies of the plans shall be provided. Minimum two (2) foot contour intervals, the location and dimensions of existing sanitary sewer lines, and the location and size of existing mains to which the system will be connected shall be shown;
 - (ii) Required copies of plans and profiles of proposed sanitary sewer lines, indicating depths of lines, shall be provided;
 - (iii) When a separate sewer system or treatment plant other than that provided by the City is proposed, copies of plans and specifications of such system or facility shall be provided.
 - (C) Water lines:
 - (i) Required copies of the plans shall be provided. Minimum two (2) foot contour intervals, the location and size of existing water lines, valves and fire hydrants, and the location and size of existing mains to which the system will be connected shall be shown;
 - (ii) Required copies of plans for all water lines and profiles for lines 12" or larger, valves and fire hydrants shall be provided;
 - (D) Drainage:
 - (i) Copies of the proposed plan and profiles, indicating minimum two (2) foot contours based on City datum shall be submitted to the Development Services Department. All street widths and grades shall be indicated on the plans, and runoff figures shall be indicated on the outlet and inlet side of all drainage ditches, storm sewers and at all points in the street at changes of grade or where the water enters another street storm sewer or drainage ditch. Drainage easements shall indicate width;

- (ii) A general location map of the subdivision showing the entire watershed;
- (iii) Calculations shall show the anticipated storm water flow, including watershed area, runoff co-efficient, time of concentration, and intensity. When a drainage ditch or storm sewer is proposed, calculations showing the basis for design shall be submitted to the Development Services Department;
- (iv) When a drainage channel or storm sewer is proposed, complete plans, profiles, cross sections, grades and specifications shall be submitted, showing complete construction details. Such plans and construction details shall be provided in accordance with the City's standards.

(c) SURVEY MONUMENTS

- (1) In all subdivisions and additions, except in an Amending Plat or a Vacating Plat, all block and lot corners shall be established and set. All corners, except those comprising the perimeter of the subdivision, shall consist of iron rods of a diameter not less than one-half (1/2) inch and eighteen (18) inches deep, set a maximum of two (2) inches below finished grade. Perimeter markers shall be monuments consisting of a two (2) inch diameter aluminum disc and set in accordance with the General Design Standards of the City.
- (2) The "X," "Y" and "Z" (elevation) coordinates (Texas State Plane Coordinate System, North Central Texas FIPS 4202) shall be shown for no fewer than two perimeter markers.

(d) STREET IMPROVEMENTS

- (1) Construction:
 - (A) All streets shall be constructed in accordance with the General Design Standards of the City, and all other applicable codes and ordinances of the City.
- (2) Perimeter Streets:
 - (A) Whenever any subdivision within the City is developed adjacent to an arterial or collector thoroughfare, the developer shall, in conjunction with such development, install a portion of the required paving, complete with curb and gutter, for the entire length of such thoroughfare where it is adjacent to the property.
 - (B) The portion of right-of-way that shall be dedicated by the developer shall be not less than one-half (1/2) of the right-of-way required for such adjacent arterial or collector thoroughfare, in accordance with the applicable right-of-way standards as established in Section X of this Ordinance. Except, however, that where an adjacent collector thoroughfare is constructed, the developer shall dedicate land in an amount adequate to ensure that at least thirty-five (35) feet of right-of-way exists for the construction of the collector thoroughfare. The developer may be required to dedicate right-of-way in an amount sufficient to provide for the entire road section of such adjacent thoroughfare after a determination as to the amount of existing right-of-way, the amount of right-of-way to be dedicated in the future by adjacent property

owners, and the benefit to be derived by the property from such adjacent thoroughfare has been made by the City.

- (C) The portion of pavement width that shall be installed by the developer for the entire length of such adjacent arterial or collector thoroughfare shall be not less than twenty-four (24) feet. The paving shall be situated and designed in a manner that will permit the remaining pavement to be added at a future date, with the finished product being in compliance with the standard specifications of the City.
 - (D) Where it is necessary that existing perimeter streets or other existing streets adjacent to the subdivision be improved, the developer shall pay or furnish satisfactory security for the payment of any required pro rata share of such street assessments prior to the approval of the final subdivision plat.
- (3) Internal Streets:
- (A) The developer shall be responsible for the dedication of right-of-way and construction of all streets which cross the Subdivision. Where an arterial or collector thoroughfare crosses such subdivision, the developer shall dedicate all right-of-way for such arterial or collector thoroughfare in accordance with the applicable right-of-way standards as established in Section X of this Ordinance.
 - (B) For any arterial thoroughfare that crosses such Subdivision, the developer of the subdivision shall be responsible for installing not more than four (4) outside traffic lanes of twelve (12) feet in width each, and shall also be responsible for installing the center median, turning lanes, curbs and gutters.
 - (C) For any collector thoroughfare that crosses such Subdivision, the developer shall be responsible for the installation of the entire pavement width. The width of such paving shall be in accordance with the applicable standards established in Section X of this Ordinance.
- (4) Connection to Existing Streets:
- (A) No building shall be occupied and no use shall commence on a lot until such time as any street or portion thereof providing access to such lot shall have been connected to the existing street system by a street of at least 24 feet in width, located within public right-of-way. The construction of such street extension shall be in accordance with the General Design Standards of the City. The provision of right-of-way and alignment of such street extension shall be in accordance with Section X of this Ordinance. Where construction of the street extension occurs concurrently with construction of any building on a lot to be served by such extension, an access road shall be provided and maintained for fire apparatus and other emergency vehicles during the construction of the building, or until such time as the extension to the existing street system has been constructed. Such access road shall be provided in accordance with the Uniform Fire Code of the City, when such is adopted by City Council.

- (4) Engineer's Certificate:
- (A) Upon the completion of construction of the street, a certificate shall be provided, signed by the subdivision's Engineer that any and all improvements constructed in the subdivision have been completed in accordance with the approved construction plans, and that all monuments and lot markers have been properly located and placed in accordance with this Ordinance.
- (5) Curbs:
- (A) Curbs shall be installed in the Subdivision by the developer on both sides of all interior streets and streets adjacent to greenbelts, and on the Subdivision side of all streets forming part of the boundary of the Subdivision, where provided. Such curbs shall be constructed in accordance with the General Design Standards of the City.
- (6) Street Signs:
- (A) Within the corporate limits of the City, street signs shall be furnished and installed by the developer at each intersection.
- (B) Street signs in Subdivisions outside the City limits but within the ETJ of the City shall be installed in accordance with City standards by the subdivider.
- (C) All signs shall be of a standard type approved by the City and shall be installed in accordance with the standards approved by the City.
- (7) Traffic Signals
- (A) Where the developer desires to build a driveway to an existing signalized intersection, and thereby creating a four-legged intersection, the developer will be required to install and pay for, including materials and labor, any additional signalization equipment, as determined by the Development Services Department.
- (B) Construction shall be in accordance with City standards and all applicable Codes and Ordinances.
- (e) **SANITARY SEWER**
- (1) All subdivisions within the designated sewer available lots area shall be provided with an approved sewage disposal system, which shall be connected to the City's sanitary sewer system.
- (2) The developer shall furnish and install the complete sewage system. The sewage system shall be designed and constructed in accordance with the General Design Standards of the City, along with TCEQ approval.
- (3) The developer shall also be responsible for the proportional share of the cost of oversized or off-site improvements needed to assure adequate sanitary sewer services for the subdivision. Such costs shall be established and paid on a case by case basis.

(f) WATER

- (1) All subdivisions shall be provided with an approved water system which shall be connected to the City water distribution system.
- (2) The developer shall furnish and install the complete water system. The water system shall be designed and constructed in accordance with the General Design Standards of the City, along with TCEQ approval.
- (3) The developer shall also be responsible for the proportional share of the cost of oversized or off-site improvements needed to assure adequate water service for the Subdivision. Such costs shall be established and paid on a case by case basis.

(g) SCREENING WALLS

- (1) The purpose of providing screening walls is to improve the appearance of subdivisions abutting public rights-of-way; preserve and promote the aesthetic appeal of surrounding neighborhoods; and provide a cohesive identity for each Subdivision.
- (2) For lots backing up to Highway 2147:
 - (A) A screening wall of at least six feet in height shall be provided and maintained along the property line of any Subdivision of single-family or duplex lots where the rear of such lots abuts any arterial thoroughfare or a major or residential collector street.
 - (B) In such instance the screening wall shall be placed on the right-of-way line separating the lot from Highway 2147.
 - (C) The construction of such screening wall shall be the responsibility of the developer of the single-family or duplex Subdivision.
 - (D) Construction of the required screening wall shall occur subsequent to the final grading of the Subdivision, but prior to formal acceptance of the Subdivision by the City.
- (3) Building Materials:

All screening walls shall be constructed of rock, stone, brick, stucco or other masonry materials approved by the City.
- (4) Maintenance:
 - (A) All areas adjacent to any screening wall or fence, or areas adjacent to a public street or right-of-way, shall be maintained in a clean and orderly condition by the developer, or appropriate POA, free of debris and trash, in accordance with the applicable codes of the City.

- (5) Alternative Screening Material:
 - (A) Other material or screening devices that meet the intent of this Section, as determined by the City, may be utilized to satisfy the requirements of this Section only upon approval of the City Council. Any screening wall shall be constructed in accordance with the General Design Standards of the City.
- (6) Conflicts:
 - (A) Where the screening or buffering standards prescribed by this Section are in conflict with special screening or buffering requirements that have been established within certain Zones, then the more restrictive requirements shall apply. In instances where placement of a screening wall conflicts with the standards of the City or other applicable ordinances, the screening wall shall be placed on private property within a screening wall maintenance easement that shall be provided on the subdivision plat of the property.

(h) FINISHED FLOOR ELEVATION

- (1) Where any lot is adjacent to a floodplain as identified on the Federal Emergency Management Agency (FEMA), Flood Insurance Rate Maps (FIRM), there shall be a minimum finished floor elevation of at least two (2) feet above the one hundred (100) year flood plain elevation.

(i) DRAINAGE AND CHANNEL ALTERATIONS

- (1) All channel alterations and storm sewer construction shall comply with the General Design Standards of the City.

(j) EASEMENTS

- (1) The Developer of any site shall be responsible for providing the necessary easements for the extension of water, sanitary sewer, and drainage facilities to adjacent properties as the property is platted or by a separate instrument approved by the City Attorney.

XII. VARIANCES AND WAIVERS

(a) GENERAL

- (1) A variance to the provisions of this Ordinance shall be considered an exception to the regulations, rather than a right. The City may authorize a variance from the Subdivision Regulations when, in its opinion, undue hardship will result from requiring strict compliance. Any person who wishes to receive a variance shall apply to the City with a list of, and a detailed justification, for each variance requested. The decision of the City whether to grant or deny a variance is at its complete discretion, and will be final.

(b) VARIANCES

- (1) In granting a variance or waiver, City Council shall prescribe only conditions that it deems necessary or desirable to the public interest while making the findings. City Council shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the effect of such variance or waiver upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance or waiver shall be granted unless City Council finds:
 - (A) That there are special circumstances or conditions affecting the land involved or other constraints such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of their land; and
 - (B) That the variance or waiver is necessary for the preservation and enjoyment of a substantial property right of the applicant, and that the granting of the variance or waiver will not be detrimental to the public health, safety or welfare or injurious to other property in the area; and
 - (C) That the granting of the variance or waiver will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this Ordinance.
- (2) Variances and waivers may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done. Financial hardship to the owner, standing alone, shall not be deemed to constitute undue hardship.
- (3) A variance or waiver may be applied for as part of a Plat or Replat request or as a separate request if the property is already platted. The applicant shall be responsible for providing all necessary information pertinent to the request, including the justification for such variance or waiver.

APPENDIX A

The following words, terms, and phrases, when used in the Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the present tense include the future tense. Words used in the plural number include the singular; words in the singular include the plural. The word “shall” is always mandatory. The word “may” is discretionary. The word “herein” means in this Ordinance

Abandonment means the legal process by which land dedicated to public use may revert to private use.

Abuts means separated by common property lines or lot lines; adjacent, adjoining, contiguous or touching.

Applicant means an owner or its authorized representative seeking approval of a proposed Subdivision plat pursuant to these regulations.

Builder means the person or party responsible for the construction of buildings and/or other structures or permanent improvements on a platted lot or building site, as defined by the City Inspector. The builder shall also be defined as the developer if responsible for platting or replatting of property and/or development of property, as herein defined.

Building means any structure for the support, shelter and enclosure of persons or movable property of any kind.

City means the City of Horseshoe Bay.

City Attorney means the individual or law firm appointed by the City Council to render legal services for the City of Horseshoe Bay.

City Council means the City Council for the City of Horseshoe Bay.

City Inspector means the individual, or their designee, whether an employee of or contracted by the City to perform such services, with responsibility to review and approve construction plans for development projects. He/she is also responsible for overseeing the construction of the development to ensure that it meets the requirements of the General Design Standards of the City of Horseshoe Bay.

Development means any man-made change to improved or unimproved property, including but not limited to buildings or other structures, paving, grading, drainage or utility improvements.

Development Services Division means that part of the City which is the administrative agent for the implementation of this Ordinance.

Development Services Manager means the administrator of the Development Services Department.

Drainage Way means all areas with an elevation lower than a ground elevation, defined as being the highest elevation of the following:

- One (1) foot above the base flood, calculated in accordance with criteria set forth by the City; or
- Two (2) feet above the elevation required for peak discharge for the 100-year design flood, Alternate C, of the Flood Insurance Study, U.S. Department of Housing and Urban Development, Federal Insurance Agency.

Dwelling Unit means a single unit providing complete, independent living facilities, and including a residential kitchen, bathroom, and provisions for living, sleeping and sanitation.

Easement means a grant of one or more of the property rights by the property owner to and/or for the use or benefit by the public, a corporation, or other person or entity. An easement shall be identified on a subdivision plat, or by a separate instrument and filed for record with the appropriate county clerk.

Engineer means a person who is duly licensed and registered under the provisions of the Texas Engineering Practice Act (V.T.C.A., Occupations Code, Chapter 1001), as amended to practice the profession of engineering.

Engineering Plans means a group of drawings and specifications, including paving, water, wastewater, or other required plans, submitted to the City Inspector for review in conjunction with a subdivision plat or development.

Existing Subdivision means those subdivisions identified on Appendix B.

Extraterritorial Jurisdiction (ETJ) means the unincorporated area that is contiguous to the corporate boundaries of the City, as further provided for in the Texas Local Government Code, Chapter 42, as amended.

Eyebrow means a shortened cul-de-sac on one side of a local street, or an informal open space created along a street that preserves an existing natural feature that is in the path of the street.

Federal Emergency Management Agency (FEMA) means the federal agency which administers the National Flood Insurance Program.

Final Acceptance means acceptance by the City of all the necessary public utilities and facilities and other required improvements constructed by a developer in connection with the development of land.

Flood Plain means any land area susceptible to being inundated by water from the base flood.

Floodway means a drainage area designated on a plat to accommodate the base flood for existing creeks and open drainage ways.

Frontage means all of the property measured along the property line abutting on one side of the street.

General Manager means the City's chief administrative officer, as appointed by the City Council. The term also includes the General Manager's designee.

Greenbelt means a linear park, generally in or near a flood plain.

Infrastructure means all streets, sidewalks, storm drainage facilities, water and wastewater facilities, utilities, lighting, transportation, and such other facilities as required by the City.

Lot means a physically undivided tract or parcel of land having frontage on or adjacent to a public or private street or roadway and which is, or in the future may be offered for sale, conveyance, transfer, or improvement; which is designated as a distinct and separate tract, and which is identified by a tract, lot number, symbol, or metes and bounds, whether or not in a duly approved subdivision plat which has been properly recorded.

Monument means a permanent structure set on a line to define the location of property lines, important horizontal subdivision control points, and other important features on a plat.

Owner means the owner of the land subject to the proposed subdivision.

Plat means a map, drawing, or chart on which subdivider's plan of a subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, easements, etc., and drawn to scale is presented, which he submits for approval, and all copies of it. As used in this Ordinance, a plat includes final plats, replats, amending plats, abandoned plats and vacating plats.

Plat, Amending means a change to a final plat as permitted in Section VII, Section (b). of this Ordinance.

Plat, Final means a map of a proposed subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required and approved under these Regulations.

Plat, Vacating means a final plat which is vacated through the procedures described in this Ordinance.

Preliminary Plat means a plat of a subdivision which is under review by the City Council in accordance with the requirements of these Regulations and which has been filed with the Development Services Division.

Private Street means any right-of-way not dedicated to the public and restricted to the use of certain property owners and their needs.

Property Owners Association (POA) means a formal nonprofit organization operating under recorded land agreements through which (a) each lot and/or homeowner in a specific residential area is automatically a member and (b) each lot or property interest is automatically subject to a charge for a proportionate share of the expense for the organization's activities, such as the maintenance of common property, and (c) the charge if unpaid, becomes a lien against the nonpaying member's property.

Public Improvement means any right-of-way, easement, or physical improvement of any kind for public use.

Public Street means any right-of-way dedicated to the public which is owned, accepted or controlled by the City, county, or state and maintained by same for use of vehicular traffic. This definition also includes streets dedicated to the public use although not maintained by the aforesaid governmental entities.

Regulations mean the City's subdivision and development regulations.

Replat means the process of re-subdividing all or any part of a final plat, which does not require the vacation of the entire preceding plat, but not including an amending plat.

Residential Development means the construction of one or more dwelling units.

Right-of-Way Line means a dividing line between a lot, tract, or parcel of land and the public right-of-way.

Screening Wall means a solid opaque wall, constructed of rock, stone, brick, stucco or other masonry materials approved by the City, not less than six (6) feet in height measured at the highest finished grade, and designed by an Engineer and constructed in accordance with the General Design Standards of the City of Horseshoe Bay.

Street or Road means a principal traffic artery of minimum fifty (50) feet right-of-way; and which may act as principal connecting street with a county road, state or federal highway, with the consent and permission of the federal or state highway department. Any portion of a lot used for access must be a minimum of fifty (50) feet in width.

Subdivision means a division of land situated within the City or in the ETJ of Horseshoe Bay into two or more parts to lay-out:

- a subdivision of the tract, including an addition;
- lots;
- streets, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, squares, parks, or other parts; or
- A division of tracts under this Ordinance includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for deed, by using a contract of sale or other executory contract to convey or by using any other method, including a condominium or multi-family scheme.

Surveyor means a licensed state land surveyor or a registered professional land surveyor, as authorized by the Professional Land Surveying Practices Act (V.T.C.A., Occupations Code, Chapter 1071).

Temporary Use means use of an improvement built or maintained by an applicant in order to remedy a circumstance that is temporary in nature and that will be removed upon completion of the subdivision or shortly thereafter.

Tract means all contiguous property in common ownership.

Utilities means an agency under public franchise or ownership which provides a regulated service to the public, such as electric, gas, or communication services.

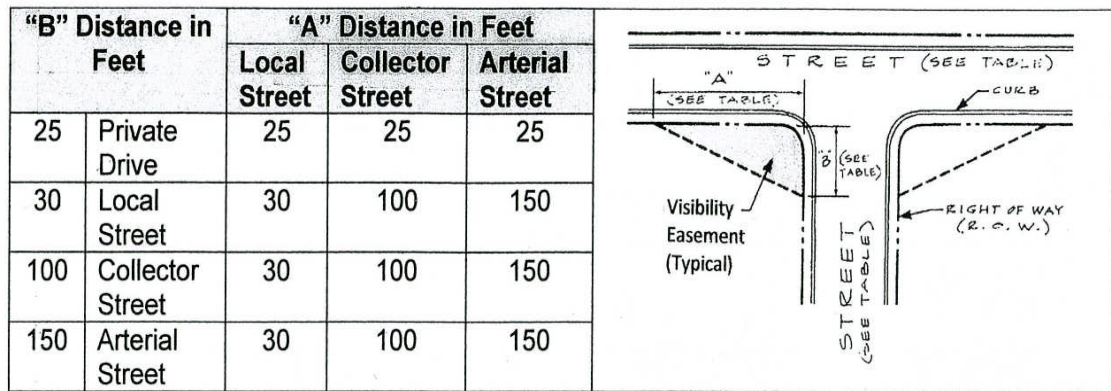
Unity Agreement means an agreement by the owners of adjacent tracts or lots to consider their combined tracts or lots as a singular tract or lot under the provisions of the City of Horseshoe Bay Building Code.

Vacation means the legal process by which platted land may be unplatted.

Variance means modification of the provisions of these regulations, as applied to a specific piece of property, as further set out in Article XII of this Ordinance.

Visibility Easement means an easement established at the intersection of two streets in order to provide clear and unobstructed sight distances for drivers of vehicles turning from one street onto the other street. See Figure 1.

FIGURE 1



Within the visibility easement, the planting of trees or other vegetation or the location of structures over two and one half (2-1/2) feet in height that would obstruct the clear sight across the area of the easement shall be prohibited. The easement shall provide right of entry to the City for the purpose of removing any object or vegetation that obstructs the clear sight across the easement.

Waiver means relief from the provisions of these regulations, as applied to a specific piece of property, as further set out in Section XII of this Ordinance.

Appendix B – Established Subdivisions

Applehead
Applehead Island
Bay Country
Escondido
Horseshoe Bay
Horseshoe Bay West
Lago Escondido
Matern Island
Pecan Creek
Peninsula
Siena Creek
Skywater Over Horseshoe Bay
The Trails of Lake LBJ

Appendix C – Signature Blocks

Declarant’s Signature Block

State of Texas §

County of _____ §

KNOW ALL MEN BY THESE PRESENTS: That _____, Declarant acting herein by and through its duly authorized President _____, does hereby join with _____, owner, in the dedication of the attached plat of _____, Plat No. _____, Lot No. _____ as shown on the plat of _____, Plat No., recorded in Volume ____, Page ____ of the _____ County Plat Records, _____ County, Texas.

IN WITNESS, WHEREOF, _____, Declarant, has caused the presents to be signed by _____, its said President on this _____ day of _____, 20____.

(President’s Name), President

(Declarant’s Name), Declarant

*****Not
ary

State of Texas §

County of _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and considerations therein stated.

Given under my hand and seal of office this _____ day of _____, 20__.

Notary Public,
_____ County, Texas

Owner's Signature Block

State of Texas §
County of _____ §

Date _____, 200__

KNOW ALL MEN BY THESE PRESENTS: that I (we), being the owner(s) of the _____ acre tract of land shown on this plat, do hereby subdivide and adopt this plat of said subdivision to be known as _____, as the official plat of same, and hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

Signature

Co-Owner's Signature (If Applicable)

Owner's

Notary

State of Texas §
County of _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and considerations therein stated.

Given under my hand and seal of office this _____ day of _____, 20__.

Notary Public, _____ County, Texas

Corporate Owner's Signature Block

State of Texas §
County of _____ §

Date _____, 200__

KNOW ALL MEN BY THESE PRESENTS: that _____, Inc. acting herein by and through its legally authorized representative, _____, being the owner of the _____ acre tract of land shown on this plat, do hereby subdivide and adopt this plat of said subdivision to be known as _____, as the official plat of same, and hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

Notary

State of Texas §
County of _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and considerations therein stated.

Given under my hand and seal of office this _____ day of _____, 20__.

Notary Public, _____ County, Texas

LCRA Development Notice:

All property herein is subject to the Lower Colorado River Authorities Highland Lakes Watershed Ordinance. Development or construction other than one single family residence and associated facilities per lot or any development totaling more than 10,000 square feet of impervious cover or disturbing more than one acre of land may require an LCRA development permit, or other permit by successors or assigns of LCRA.

Surveyor's Certification/ Signature Block

State of Texas §
County of _____ §

Date _____, 20__

I, the undersigned, a registered professional surveyor in the State of Texas, do hereby certify that this plat of _____, was prepared from an actual survey made on the ground under my supervision and that said plat is a true and correct representation of same as I located its component parts on the ground.

(Surveyor's Seal)

Registered Public Surveyor

City Development Services Manager's Signature Block

This plat has been submitted to and considered by the City Development Services Manager of the City of Horseshoe Bay, Texas, on the _____ day of _____, 20__, and is hereby recommended to the City Council for its consideration for approval.

By: _____
Eric W. Winter, Development Services Manager

Approval by the City Council of Horseshoe Bay

This plat has been submitted to the City Council of the City of Horseshoe Bay, Texas at its meeting on the _____ day of _____, 20__, and is duly considered and found to comply with the laws and statutes of the State of Texas and the City Ordinances of the City of Horseshoe Bay.

By _____
Robert W. Lambert, Mayor

Attest:

Toni Vanderburg, City Secretary

County Recording Certification

State of Texas §

County of _____ §

Filed for record on the _____ day of _____, 200__ at _____ o'clock _____.M. and Recorded in Cabinet _____, File _____ of the Plat Records of _____ County, Texas.

County Clerk, _____ County, Texas

Appendix D – Dedication Statements

EASEMENT/ ROW

(The following language must be added to all plat submittals for dedication purposes):

DEDICATION STATEMENT

NOW, THEREFORE KNOW ALL MEN BY THESE PRESENTS: THAT I, do hereby adopt this plat as _____ (Name of Plat)_____, an Addition to the City of Horseshoe Bay, _____ County, Texas, and do hereby dedicate to the public use and benefit forever the streets and rights-of-way shown thereon for all public purposes including but not limited to all street purposes and the right of the City of Horseshoe Bay and its assigns to lay, install, operate, repair, replace and remove and reconstruct any and all public utilities including but not limited to water lines, sanitary sewer lines and appurtenances. The right to establish grades on said dedicated streets is hereby granted to the City of Horseshoe Bay and all claims for damages which may arise by reason of changing the present surface of said streets and rights-of-way to conform to said grades are hereby waived. The easements shown on the plat are hereby granted and dedicated and reserved for the use and accommodation of the City of Horseshoe Bay for public sewer lines, and appurtenances. All and any public utility and the City of Horseshoe Bay shall have the right to remove and keep removed all or part of any residence, building, fences, trees, shrubs or other improvements, growths or obstructions which may in any way endanger or interfere with the construction, maintenance, operation or efficiency of the respective utility in, on or under said easement strips. The City of Horseshoe Bay and all public utilities shall at all times have the full right of ingress and egress to and from and upon said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of the respective systems without the necessity at any time of procuring the permission of anyone.

I do further dedicate to the public use forever all parks, squares, parkways, and all other public uses and dedications shown on the face of this plat. All lots in the subdivision shall be sold subject to the building lines shown on this plat, and the minimum building setback lines in all City of Horseshoe Bay Ordinances.

IN WITNESS THEREFORE, I have hereunto set my hand this the _____ day of _____, 20_____.

(OWNER’S SIGNATURE)

Notary

State of Texas §
County of _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and considerations therein stated.

Given under my hand and seal of office this _____ day of _____, 20____.

Notary Public, _____ County, TX

PRIVATE STREETS

(The following language must be included on all plats where dedication of “private” streets is requested):

_____ hereby binds itself, its successors and assigns, to construct all streets, drainage structures and drainage facilities, and other appurtenances through and on the streets and rights-of-way in the subdivision shown on this plat in accordance with the requirements, standards and specifications of the City of Horseshoe Bay (the “City’s Standards”): all such improvements shall be subject to the right of inspection and approval by the Department of Public Works of the City. The streets and rights-of-way shown on this plat as access easements represent private streets and rights-of-way. By acceptance of a deed conveying title to any lot in this subdivision, the owner thereof shall be deemed to have agreed and acknowledged as follows:

1. The City has no responsibility or liability to make any repairs to such streets and rights-of-way as long as they are private streets and rights-of-way, except repairs made necessary by reason of installation, repair or replacement of municipal utilities located therein or in the utility easements adjacent thereto.
2. So long as such streets and rights-of-way are private, the responsibility for maintenance and replacement thereof shall fall on _____ Home Owner’s Association (the “Association”), a Texas non-profit corporation, its successors and assigns, or on the owners of the lots in this subdivision.
3. Neither the property owners within this subdivision nor the Association nor any other association or other organization or entity representing them shall have the right to dedicate (whether by voluntary or involuntary act or omission) such private streets and rights-of-way to the City unless and until the City has inspected such streets and rights-of-way and determined that, at the time in question, they meet the City’s Standards. Under no circumstances whatsoever shall the City be required to accept responsibility for the maintenance of such streets and rights-of-way until

after the City has inspected same and determined that they meet the City's Standards and further determined in its absolute discretion that it desires to accept such responsibility. If the City desires to accept a dedication of said streets and rights-of-way and inspects the streets and rights-of-way and determines that they do not meet the City's Standards, the City shall not accept such dedication until the Association, its successors or assigns, or the owners of the lots in this subdivision make, at the owner's or the Association's expense, all repairs required by the City to bring the streets and rights-of-way up to the City Standards.

4. The provisions hereof shall be binding upon and enforceable against all property owners in this subdivision and the Association, its successors or assigns.

5. These covenants and restrictions herein set forth shall run with the land and be binding on the owners, their successors and assigns, and all parties claiming by, through and under them shall be taken to hold, agree and covenant with the owners and their successors in title, and with each of them, to conform to and observe all restrictions and covenants herein, and said covenants and restrictions shall survive any replatting of a part of this property. Upon replatting of all or part of this property, the City may require any lawful, similar or additional restrictions and covenants as it may see fit. These covenants and restrictions shall terminate when all the access easements shown on this plat are included within a replat of all or part of this property and are dedicated as public streets and rights-of-way.

6. Invalidation of any word, phrase, sentence, paragraph, covenant or restriction by court judgment or otherwise, shall not affect the validity of the other covenants or restrictions contained herein.

7. If the owner or owners should open the private streets to the public, such shall be considered a temporary license only. The owner or owners, through the Association, reserve the right to close the street to the public at any time prior to formal dedication of the street to the public, and acceptance of the same by the City.

8. Until such time as the private streets shown herein are formally offered for dedication and formally accepted by resolution of the City Council of the City, the owners of the lots shown hereon agree to release, indemnify, defend and hold harmless any governmental entity for damages to the private street occasioned by the reasonable use of the private street by the governmental entity, and for damages to any party arising from the condition of said street. All governmental service vehicles, including, without limitation, law enforcement, fire, ambulance, sanitation, building inspection and health, shall have a right of access over the private streets and rights-of-way.

9. The owner or owners of any lot or lots within this subdivision hereby agree and recognize that the entire subdivision is benefited by the City allowing the owners to maintain and control access to the private streets shown hereon; and that the City is benefited by having the value of the property enhanced for ad valorem tax purposes and not being under any maintenance obligations with respect to the private streets and rights-of-way. For purposes of enforcement of these covenants, these benefits shall constitute sufficient and valid considerations.

Executed this _____ day of _____, A.D., 20_____.

(OWNER'S SIGNATURE)

Notary

State of Texas §
County of _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and considerations therein stated.

Given under my hand and seal of office this _____ day of _____, 20____.

Notary Public, _____ County, TX

AVIATION EASEMENT

(The following language is required on all property located in the Airport Zone or any replat where an aviation easement was required previously and shown on plat):

AVIATION RELEASE

State of Texas §
County of _____ §

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, _____,
hereinafter called OWNER (whether one or more), is the owner of a certain parcel of land situated in the City of Horseshoe Bay, _____ County, Texas, being more particularly described as _____, an addition to the City of Horseshoe Bay, Llano County, Texas.

OWNER does hereby waive, release, remise, quit claim and forever hold harmless the City of Horseshoe Bay, Texas a municipal corporation, hereinafter called CITY, from any and all claims for damages of any kind that OWNER may now have or may hereinafter have in the future by reason of the passage of all aircraft (aircraft being defined for the purpose of this instrument as any contrivance now known or hereinafter, invented, used or designed for navigation of or flight in the air) by whomsoever owned and operated, in the air space above OWNER'S property. Such release shall include, but not be limited to, any damages to OWNER'S described property, such as noise, vibration, fumes, dust, fuel and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at or taking off from, or operating at or on the Horseshoe Bay Airport, whether such claim be for injury or death to person or persons or damages to or taking of property; and OWNER does hereby fully having remiss, and release any right or cause of action which it may now have or which it may in the future have against the CITY, whether such claims be for injury to person(s) or damage to property due to noise, vibration, fumes, dust, fuel and lubricant particles,

and all the other effects that may be caused or may have been caused by the operation and/or maintenance of aircraft or aircraft engine at or on said Horseshoe Bay Airport. It is agreed that this Release shall be binding upon OWNER, his successors, heirs, executors, administrators and assigns, in interest within _____, an addition to the City of Horseshoe Bay, Texas, and it is further agreed that this instrument shall be a covenant running with the land, and shall be recorded in the Deed Records of Llano County, Texas.

Executed this _____ day of _____, A.D., 20_____.

(OWNER'S SIGNATURE)

Notary

State of Texas §
County of _____ §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same for the purpose and considerations therein stated.

Given under my hand and seal of office this _____ day of _____, 20_____.

Notary Public, _____ County, TX