

**ORDINANCE NO. 2020-320**

**AN ORDINANCE OF THE CITY OF DEVERS, TEXAS, ESTABLISHING SUBDIVISION REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Devers, Liberty County, Texas (the "City"), is a Type B general-law municipality and the City Council of the City of Devers, Liberty County, Texas (the "City Council"), has the authority to adopt an ordinance, not inconsistent with state law, that the City Council considers proper for the governance of the City pursuant to Texas Local Government Code, Section 51.032; and

**WHEREAS**, Chapter 214 of the Texas Local Government Code expressly authorizes every municipality to adopt, administer, and enforce residential and commercial building codes in the municipality's territorial limits; and

**WHEREAS**, Chapter 212 of the Texas Local Government Code provides that the governing body of a municipality may adopt 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, including its extraterritorial jurisdiction; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City and its residents to establish subdivision regulations as provided for in this Ordinance to promote the health, safety and general welfare of the City and the safe, orderly, and healthful development of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEVERS, LIBERTY COUNTY, TEXAS THAT:**

**SECTION 1. SUBDIVISION REGULATIONS GENERALLY**

**Sec. 1.01 Title.** These regulations shall officially be known, cited, and referred to as the subdivision regulations of the City of Devers, Texas (hereinafter "these regulations").

**Sec. 1.02 Purpose.** The purpose of these regulations is to:

- (a) Guide the future growth and development of the City of Devers (hereinafter "the city"), to achieve orderly urban development through land subdivision and assemblage, to assure the best possible community environment, to enhance the special characteristics and small town character of the city and to create a unique sense of place, in concert with the city's other regulations and ordinances.
- (b) To provide adequate municipal services, safe streets, and to protect and promote the public health, safety and general welfare.
- (c) To protect and conserve the value of land throughout the city and the value of buildings upon the land, and to minimize the conflicts among various uses of land and buildings.
- (d) To establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- (e) To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision; and that the community will be required to bear no more than its fair share of the cost of

providing the facilities and services by requiring the subdivider to pay fees, furnish land, or establish mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development.

(f) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability, and beauty of the community and the value of the land.

(g) To preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural features.

(h) To provide for open spaces through the most efficient design and layout of the land.

(i) To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, or scattered and low-grade subdivision.

**Sec. 1.03 Authority.** The city council, under such requirements, limitations and/or restrictions as are provided in this division, shall have the power and authority to approve of plats meeting the requirements of this article for subdivisions within the corporate limits of the city and for a distance surrounding the corporate limits of the city within the extraterritorial jurisdiction of the city as authorized by chapter 212 of the Texas Local Government Code.

**Sec. 1.04 Jurisdiction.** All property proposed for subdividing or resubdividing within the city or its extraterritorial jurisdiction shall hereafter be laid out in accordance with these regulations for approval by the city council. No other subdivisions will be recognized by the city. Prior to a plat being considered by the city council, the same shall be reviewed by such administrative personnel as are charged with such responsibility in the city. No land may be subdivided through the use of any legal description other than with reference to a plat approved by the city council in accordance with these regulations. No building permit or certificate of occupancy for any parcel or plat of land within the city, created by subdivision after the effective date of this article, and not in substantial conformity with the provisions of these subdivision regulations shall be issued, and no excavation of land or construction of any public or private improvements, shall take place or be commenced except in conformity with these regulations.

**Sec. 1.05 Enactment.** In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted and made effective as of the date of adoption of this ordinance by the city council of the City of Devers. All applications for subdivision approval including final plats, pending on the effective date of these regulations shall be reviewed under these regulations except that these regulations will not apply if preliminary plat approval was obtained prior to the effective date of these regulations as required by the city unless the city council determines on the record that application of these regulations is necessary to avoid a substantial risk of injury to the public health, safety and general welfare.

**Sec. 1.06 Interpretation, conflict, and separability.**

(a) Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare, these regulations shall be construed broadly to promote the purposes for which they are adopted.

(b) Conflict.

(1) Public provisions. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by other provisions of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(2) Private provisions. These provisions are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive or standards that are higher than the requirements of these regulations, or the determinations of the city council in approving a subdivision or enforcing these regulations, and the private provisions are not inconsistent with these regulations, then the private provisions shall be operative and supplemental to these regulations and the determinations made under the regulations.

(c) Separability. If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The city council hereby declares that it would have enacted the remainder of these provisions even without any such part, provision, or application which may be judged to be invalid.

**Sec. 1.07 Saving provision.** These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the municipality under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm or corporation by lawful action of the municipality except as shall be expressly provided for in these regulations.

**Sec. 1.08 Reservations and repeals.** Upon the adoption of these regulations according to law, any previous subdivision regulations adopted by the city, and any subsequent amendments thereto are hereby repealed, except as those sections expressly retained in these regulations.

**Sec. 1.09 Amendments.** For the purpose of protecting the public health, safety, and general welfare, the city council may from time to time propose amendments to these regulations which shall then be approved or disapproved by the city council at a public hearing following public notice.

**Sec. 1.10 Public purpose.** Regulation of the subdivision of land and the attachment of reasonable conditions to land is an exercise of valid police power delegated by the state to this municipality. The subdivider has the duty of compliance with reasonable conditions laid down by city council for design, dedications, improvement, and restrictive use of the land to conform to the physical and economic development of the municipality and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

**Sec. 1.11 Variances, exceptions, and waiver of conditions.**

- (a) General. Where the city council finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances, exceptions, and waiver of conditions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that the variance, exception, or waiver of conditions shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the city council shall not approve variances, exceptions, or waiver of conditions unless it shall make finding based upon the evidence provided to it in each specific case that:
  - (1) The granting of the variance, exception, or waiver of conditions will not be detrimental to the public safety, health, or welfare, or injurious to other property.
  - (2) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property.
  - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute hardship requiring a variance.
  - (4) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this article.
- (b) Conditions. In approving variances, exceptions, or waivers of conditions, the city council may require such conditions as will, in its judgment, secure substantially the purposes described in section 1.02.
- (c) Procedures. A petition for a variance, exception or waiver of conditions shall be submitted in writing to the city council at the time when the preliminary plat is submitted. All variances, exceptions and waivers requested shall be noted on the petition, which shall be a separate document from the plat. The petition shall state fully the grounds for the application and all of the facts relied upon by the applicant including, but not limited to:
  - (1) The nature of the proposed use of the land and existing uses of land in the vicinity;
  - (2) The number of persons who will reside or work in the proposed subdivision;
  - (3) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity; and all the elements of subsections (a)(1) through (4);
  - (4) Any and all other facts the city council may deem relevant.
- (d) Failure of the city to note any plat provisions which are in violation of these regulations shall not constitute a variance, exception or waiver and shall not relieve subdivider of his duty to comply with these regulations.
- (e) Such findings of the city council, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the city council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this article so that the public health, safety, and welfare may be secure and substantial justice done. No variance shall be granted as to required improvements, minimum lot sizes, flood hazard area regulations,

or bond requirements.

**Sec. 1.12 Enforcement, violations and penalties.**

**(a) General.**

- (1) It shall be the duty of the building official to enforce these requirements and to bring to the attention of the city council or its designated agent any violations of these regulations.**
  - (2) No owner, or agent of the owner, of any parcel of the land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved and signed by the city council in accordance with the provisions of these regulations and recorded in the real property records of the county. No permit of any type may be issued by the city for any work on any parcels of property that have been divided, sold or transferred that is not in accordance with the provisions of this article, where applicable, prior to obtaining any permits of any type from the city for work or construction. Nothing herein shall be deemed to prohibit orderly excavation, grading or other permits; however, no rights shall inure to any landowner or any party excavating property and no right of anticipation or right to anticipate any permit shall at any time be applicable.**
  - (3) The subdivision, as 'subdivision' is defined herein, of any lot or any parcel of land solely by the use of metes and bounds description for the purpose of sale, transfer, lease or development is prohibited. The division of land into any tract less than five (5) acres or in any circumstance where public access for ingress or egress or utilities is provided or where public improvements are specified to be dedicated to the city, must be subdivided in accordance with the requirements of this article. It is a violation of this ordinance if land is divided without "subdividing" and otherwise meeting the requirements of this ordinance. No permit may be issued by the city in any case where a division of land has occurred which would otherwise require compliance with this ordinance and where no approval by the city has been given in accordance with the procedures set out in this article.**
  - (4) No permit shall be issued for a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the city have any obligation to issue certificates of occupancy or to extend utility services to any parcel created in violation of these regulations.**
  - (5) Regardless of the procedure used in constructing improvements, no utilization of a development shall be made for residential purposes, and no building permit or certificate of occupancy shall be issued, until improvements are made which allow permanent and approved utility connections to be made. Specifically, it shall be unlawful for any builder or subdivider to allow any structure to be utilized for residential purposes until the subdivision water and sewer systems are constructed, complete, operable, and approved by the city council.**
- (b) Violations and penalties. Any person who violates any of these regulations shall be subject to such penalties as provided by law for a class C misdemeanor.**
- (c) Civil enforcement. Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building, structure or premises. These remedies shall be in addition to the penalties described above.**

- (1) The city council and building official at all times shall uniformly apply and enforce this article against all citizens and property owners in the city.
- (2) Prior to commencing any suit, the city attorney shall make a good faith investigation as to the allegations and shall so advise the city council, and the city council in exercise of its discretion may elect to file suit or become a party.
- (3) The city attorney upon authorization by the city council may file suit or become a party to a suit on behalf of the city in any court of competent jurisdiction for the purpose of enjoining or abating the violation of a restriction or recorded restriction.
- (4) In all suits filed by the city of to which the city becomes a party, the city attorney shall seek to recover reasonable attorney's fees on behalf of the city for enforcement of these regulations.

**Sec. 1.13 Model homes.**

- (a) Notwithstanding any provision of this article, model homes may be constructed in a residential subdivision after approval of the final plat, but prior to installation of all required improvements subject to certain conditions. For the purposes of this article, model home shall be defined as a dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision and which will not be permanently occupied during its use as a model.
- (b) Each subdivision shall be limited to one model home per 20 platted and approved lots in the subdivision. In the case of fractional lots, one additional home may be built. Lots planned for future phases of development shall not be considered as platted lots.
- (c) Construction of model homes may begin upon completion of water and sewer improvements in the subdivision. The model home may only be occupied for sale and display purposes upon completion of the street leading to the model home and for 50 feet thereafter.
- (d) The model home shall be used only for selling new homes within the subdivision where the office has been established. The model home will not be inhabited as dwellings and will only be used for display sales purposes until after installation and acceptance of all required improvements in the subdivision.
- (e) All installations related to the sales activity (e.g., canopies, partitions, walls, signage, fencing, lighting, temporary parking and similar improvements) shall be converted to the approved residential use prior to occupancy as a residential structure. If the carport or garage has been converted to office space, it must be returned to a condition suitable for the parking of automobiles.
- (f) Applicant shall post a \$5,000 bond, refundable deposit, or other form of surety per model home to guarantee conversion of any office/display area to approved residential use and for removal of any exterior items such as temporary parking, fencing, lighting and signage.
- (g) Applicant shall make application for a model home building permit which shall be subject to all applicable codes and ordinances in the same manner as any other residence. It shall also comply with all deed restrictions, drainage and other construction plans of the given subdivision.
- (h) Model home permits shall be valid for no longer than three (3) years prior to expiration. Applicant may file a request for any extension upon a showing that the model home is still needed. The application for a model home permit shall include the following:
  - (1) A statement in a form approved by the city attorney and signed by the applicant in which he agrees to indemnify and hold harmless the city, its

employees, agents, representatives, and elected and appointed officials from any and all claims made against them arising from the construction and occupancy of the model home(s) prior to construction of all required improvements and filing of the final plat.

- (i) Granting a model home permit in no way obligates the city to supply any utility or access to any model home until such utilities and roadways have been constructed and accepted by the city.

## SECTION 2. DEFINITIONS

### Sec. 2.01 Usage.

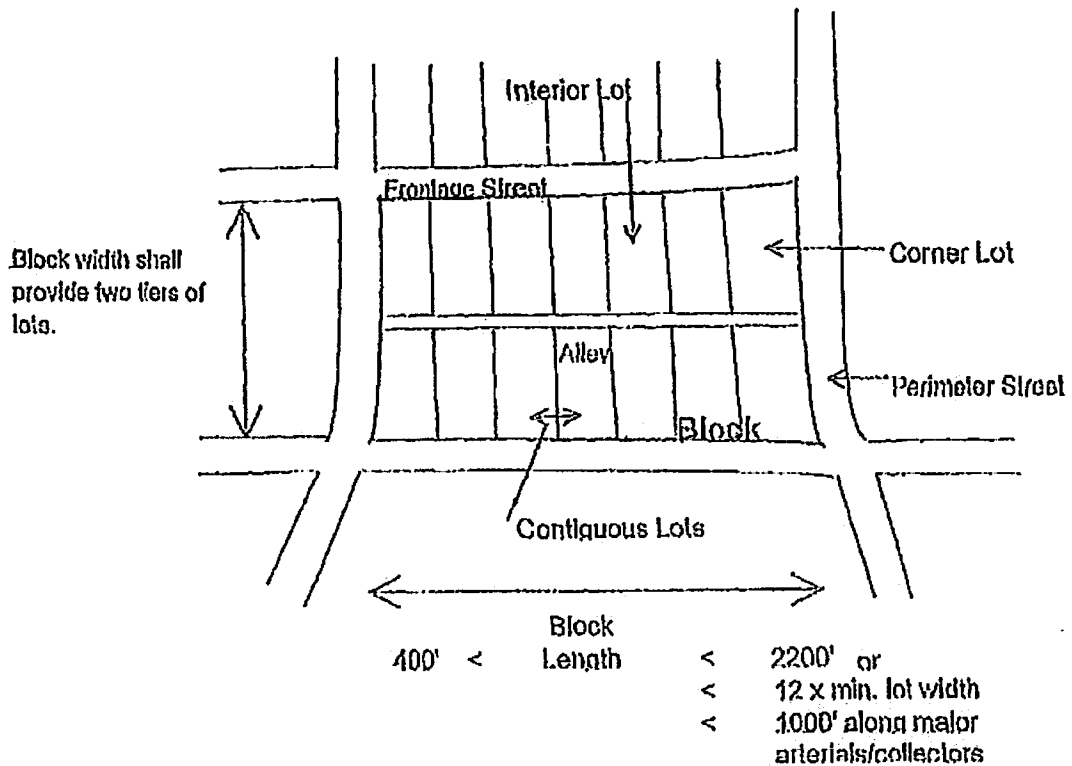
- (a) For the purposes of these regulations, certain numbers, abbreviations, terms and words shall be used, interpreted, and defined as set forth herein.
- (b) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.

### Sec. 2.02 Words and terms defined.

Adequate public facilities. Facilities determined to be capable of supporting and servicing the physical area and designated intensity of use of the proposed subdivision in compliance with the appropriate master plan and comprehensive plan of the city.

Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street (see figure 1).

Figure 1.



Applicant. The owner of land proposed to be subdivided or its representative who shall have expressed written authority to act on behalf of the owner.

**Area of benefit.** An area of land which is designated by the city council as receiving benefits from or creating the need for the construction, acquisition, or improvement of a public facilities project.

**Area-related facility.** A public improvement which is designated to serve new development in a specific area and is not for the primary benefit or use of any single project. Area-related facility may include land dedication or construction of any oversized public improvement whether local or off site.

**Block.** A tract of land bounded by streets, or by combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of the city (see figure 1).

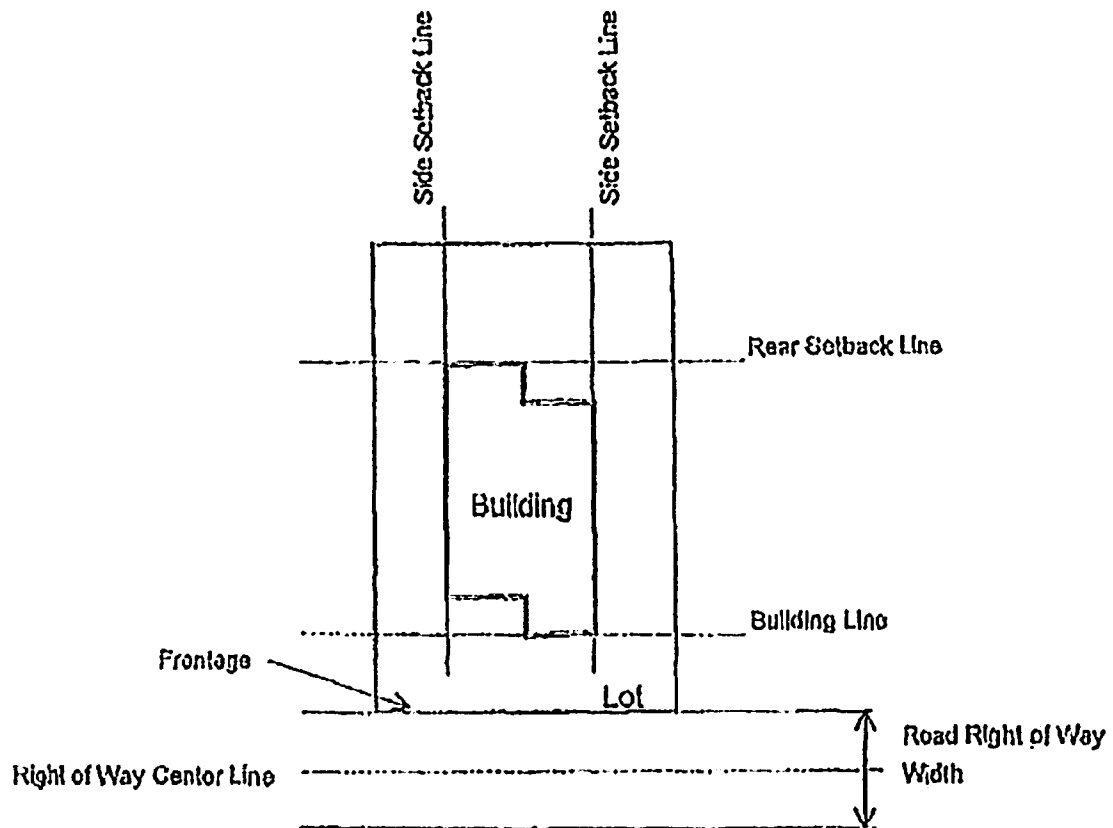
**Bond.** Any form of surety bond in an amount and form satisfactory to the city council. All bonds shall be approved by the city council.

**Buffer.** See external buffer.

**Building.** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or moveable property of any kind.

**Building line.** A line parallel to and measured from the front property line (frontage) of a lot, which establishes an area in which no building or structure, or portion thereof, shall encroach or otherwise be established or constructed (see figure 2).

**Figure 2.**



**Building official.** The person designated by the city council to enforce these regulations.



Capital improvement. A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the city.

Capital improvements program. A plan setting forth, by category of public facilities, those capital improvements and that portion of their costs which are attributable to serving new development within designated service areas for such public facilities over a period of specified years. Capital improvements program may refer either to the plan for a particular service area or to the aggregation of capital improvements and the associated costs programmed for all service areas for a particular category.

Central sewerage system. A community sewer system including collection and treatment facilities established by the subdivider to serve a new subdivision in an area not served by city utilities.

Central water system. A private water company formed by a subdivider to serve a new subdivision in an area not served by city utilities.

Certify. The process by which an agency or official attests the existence of some fact or circumstance. The city by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the fact or circumstance.

City. The City of Devers, Texas.

City attorney. The licensed attorney designated by the city council to furnish legal assistance for the administration of these regulations.

City engineer. The licensed engineer designated by the city council to furnish engineering assistance for the administration of these regulations or such other individual as may be designated to carry out equivalent functions. In the event there is no city engineer designated by the city council, the building official shall perform these duties.

Comprehensive plan. Comprehensive plan, a/k/a comprehensive/master plan shall mean the comprehensive plan, if any such plan has been adopted by the city, including all its revisions, of the city and adjoining areas as adopted by the city council as a guide to future development. This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water, sewer, and other private developments and improvements. The comprehensive plan may also be defined as a series of plans such as the thoroughfare plan, water and sewer plan, and annexation plan, among others.

Conditional approval. An affirmative action by the city council indicating that approval will be forthcoming upon satisfactions of certain specified stipulations.

Condominium. A unit available for sale in fee simple contained in a multi-occupancy project subject to covenants and restrictions placing control over the common facilities in an elected board.

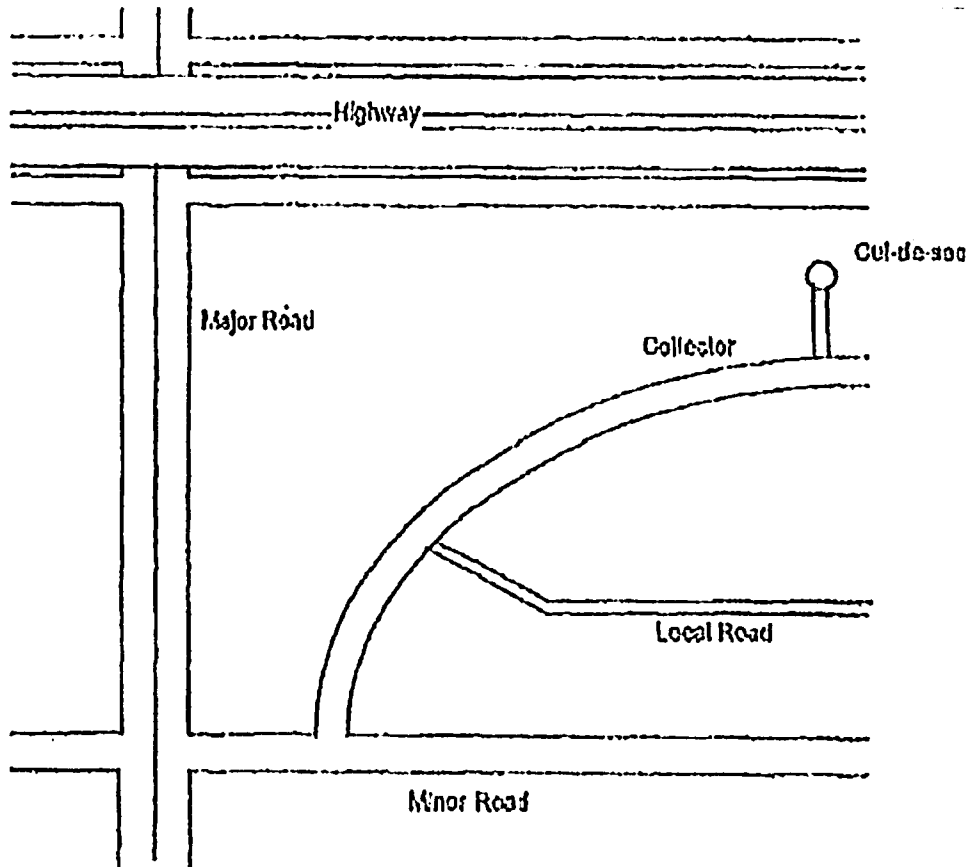
Construction plan. The plans and specifications of all improvements to be dedicated to the public upon completion and acceptance by the city council, together with all improvements to be used by purchasers of lots or tracts within a subdivision. Such plans shall be prepared, signed and sealed by a registered professional engineer licensed to practice in the state and approved by the city engineer prior to acceptance by the city council.

County. Liberty County, Texas.

Credit. The amount of the reduction of a fee, payments or charges for the same type of capital improvement for which the fee has been charged.

Cul-de-sac. A local street with only one outlet that terminates in a vehicular turnaround that allows for the safe and convenient reversal of traffic movement (see figure 3).

**Figure 3.**



Curb. A concrete border or row of joined stones forming part of a gutter along the edge of a street.

Design criteria. Standards that set forth specific requirements for improvements.

Developer. The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations. See subdivider.

Development. A project involving the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure, or any use or extension of land, any of which has the effect of increasing the requirements for capital improvements, and which requires either the approval of a plat pursuant to the city's subdivision regulations, the issuance of a building permit, or the connection to the city's water or sewer system.

Drainage. The drawing off of, or filtering of, water from land.

Drainage system. Open ditch or curb and gutter with storm sewer.

Easement. An area intended for restricted use on private property upon which any public utility or the city shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or operation of any of its respective utility or drainage systems

within any of these easements. Any public utility or the city shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, adding to or removing all or part of its respective systems.

**Escrow.** A deposit of cash with the city or escrow agent to secure the promise to perform some act.

**Exaction.** Requirement of development to dedicate or pay for all or a portion of land or costs of public facilities as a condition of development approval.

**Excavation.** The removing of earth, trenching, grubbing or otherwise clearing land, but shall not include surveying, laying out, cutting or marking any lot line or road area or road bed.

**Expenditure.** A sum of money paid out in return for some benefit or to fulfill some obligation.

**External buffer.** A naturally vegetated area along the exterior boundaries of a development which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

**Extraterritorial jurisdiction.** The unincorporated area, established by state law, that is contiguous to the corporate boundaries of the municipality. The geographical extent of any city's ETJ is contingent upon the number of inhabitants of the city.

**File.** To place a document or plat in the files of the city.

**Final plat.** The map of a subdivision to be recorded with the county clerk after signing by the city council and any accompanying material as described in these regulations.

**Final approval.** Approval of the final plat by city council. The final approval does not entail the signing and recording of the final plat, both of which only follow the construction and acceptance of public improvements or entering into a subdivision improvement agreement.

**Frontage.** That side of a lot abutting on a street and ordinarily regarded as the front of the lot (see figure 2).

**General plan.** That portion of a sketch plat submitted in connection with a multiphase or phased subdivision application which provides the information and graphics meeting the requirements of this article for the purpose of implementing an integrated development scheme for all phases of the proposed subdivision.

**Governing body.** The city council.

**Grade.** The slope of a road, street, or other public way specified in percentage terms.

**Gutter.** A channel at the edge of a street or road for carrying off surface water.

**Health officer.** The person designated by the city council to administer health regulations.

**Health, safety and general welfare.** The purpose for which municipalities may adopt and enforce land use regulations for the prevention of harm or promotion of public benefit to the community; commonly referred to as police power.

**Highway, limited access.** A freeway or expressway providing a traffic-way for through traffic, in respect to which owners or occupants of abutting property and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over the traffic-way. Highways generally feed traffic into major arterials (see figure 3).

**Household.** Any person or persons who reside or intend to reside in the same housing unit.

Impact fee. A fee imposed on new development by the city council in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such dedications.

Improvements. See lot improvements or public improvement.

Individual sewage disposal system. A private septic tank or sewage disposal system, or any other approved sewage treatment device.

Infill development. Development designed to occupy scattered or vacant parcels of land which remain after the majority of development has occurred in an area.

Landscaping. The use of vegetation for the purpose of meeting specific criteria regarding improvements to outside space, including ground cover, buffers and shade trees.

Local government. The City of Devers.

Lot. A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, for building development (see figure 2).

Lot, corner. A lot abutting on two or more intersection streets where the interior angle of intersection does not exceed one hundred thirty-five degrees. A corner lot is considered to have the street address on that street which the structure on the lot faces (see figure 1).

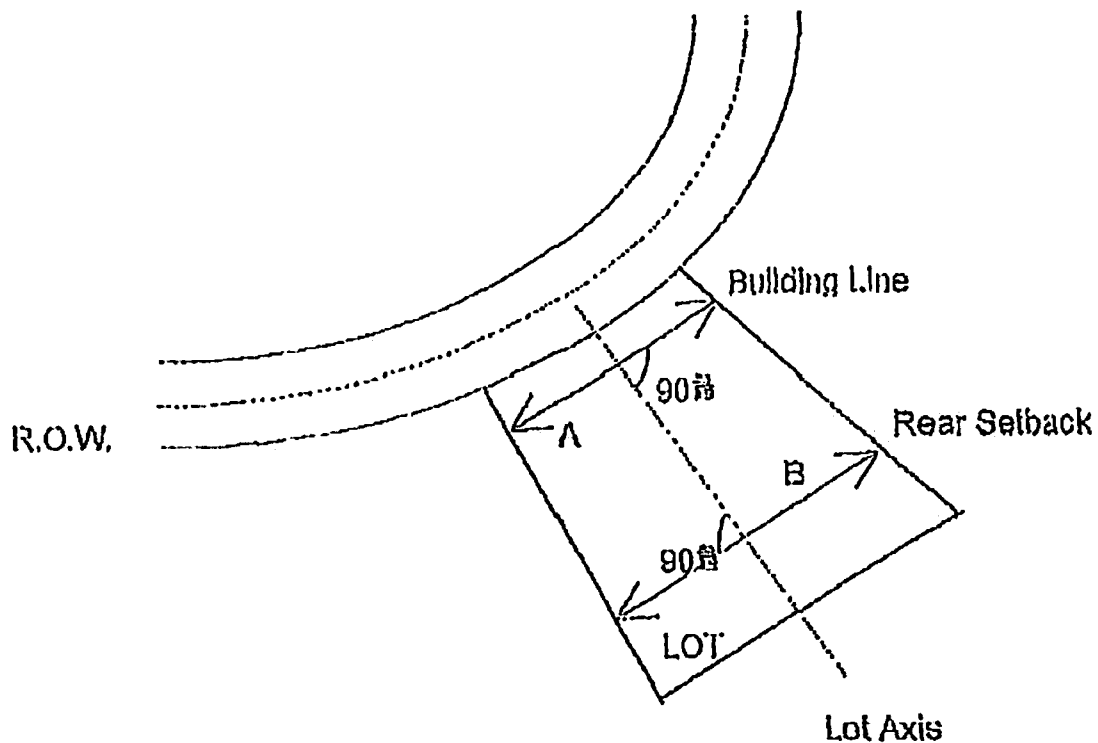
Lot improvement. Any building, structure, place, work of art, or other object situated on a lot.

Lot, interior. A lot having but one side abutting on a street (see figure 1).

Lot width. A dimension of the lot determined as follows:

- (1) If the side property lines are parallel, the shortest distance between these side lines; and
- (2) If the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot, at a distance equal to the required building line or rear setback line, whichever is smaller, the axis of the lot shall be a line generally perpendicular to the fronting street which divides the lot into two equal parts (see figure 4).

**Figure 4. Lot width in lots with nonparallel side property lines is defined as dimension A or B, whichever is smaller**



**Lots, contiguous.** Lots disposed in a way such that at least one boundary line of one lot touches a boundary line or lines of another lot (see figure 1).

**Manufactured home (HUD-Code).** A factory-built structure that is manufactured or constructed after June 15, 1976, under the authority of 42 United States Code section 5401 and is to be used as a place for human habitation, but is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

**Map of a subdivision.** The plan plat or replat.

**Master plan.** Comprehensive/master plan shall mean the comprehensive plan, if any such plan has been adopted by the city, including all its revisions, of the city and adjoining areas as adopted by the city council as a guide to future development. This plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water, sewer, and other private developments and improvements. The comprehensive plan may also be defined as a series of plans such as the thoroughfare plan, water and sewer plan, and annexation plan, among others.

**Mobile home (pre-HUD-Code).** A transportable structure, factory-built before June 15, 1976, designed to be used as a year-round residential dwelling unit, generally constructed or equipped with a permanent hitch or other device allowing it to be moved, and which has permanently attached to its body a frame, wheels or axles. For the purposes of these regulations, a recreation vehicle will be considered a mobile home.

**Model home.** A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision and which will not be permanently occupied during its use as a model.

**Money in lieu of land.** Payment of money into a municipality earmarked fund to provide for acquisition of facilities off site in place of dedicating land or providing such facility on site.

**Municipality.** See local government.

**Neighborhood park and recreation improvement fund.** A special fund established by the city to retain monies for the development of parks and recreation, contributed by subdividers in accordance with the “money in lieu of land” provisions of these regulations.

**Nonresidential subdivision.** A subdivision whose intended use is other than residential, such as commercial or industrial.

**Notice of noncompliance.** A notice issued by the city council informing the subdivider for approval of a subdivision that the sketch plat is not in compliance with these regulations and that the subdivider may not apply for preliminary approval.

**Notice to proceed.** A notice issued by the city council informing the subdivider for approval of subdivision that the sketch plat is in compliance with these regulations and that the subdivider may proceed to apply for preliminary plat approval.

**Off site.** Any premises not located within the area to be subdivided.

**Official map.** The map established by the city council showing the streets, highways, parks, drainage systems and setback lines laid out, adopted, and established by law, and any amendments or additions to be adopted, and established by law, and any amendments or additions to be adopted by city council resulting from the approval of subdivision plats and the subsequent filing of approved plats.

**Open ditch.** Drainage facility adjacent to and parallel with a road or street on the front portion of a lot.

**Ordinance.** Any legislative action, however denominated, of the city which has the force of law, including any amendment or repeal of any ordinance.

**Owner.** The record owners of the fee or a vendor in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

**Person.** Any individual or group of individuals, or any corporations, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

**Phased subdivision application.** An application for subdivision approval submitted pursuant to a general plan, or at the option of the subdivider, pursuant to a specific plan in which the subdivider proposes to immediately subdivide the property but will develop in one or more individual phase(s) over a period of time.

**Police power.** Inherent, delegated, or authorized legislative power for purposes of regulation to secure health, safety and general welfare.

**Preliminary plat.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the city council for approval.

**Premature subdivision.** Subdivision of land which takes place prior to the installation of sufficient infrastructure in the area or prior to a subdivision falling within the extraterritorial jurisdiction of the city.

**Public facilities project.** Any and all public improvements the need for which is directly or indirectly generated by development, including but not limited to the following:

- (1) Water mains, pipes, conduits, tunnels, hydrants, taps, and other necessary works

and appliances for providing water service and fire protection.

- (2) Lines, conduits, and other necessary works and appliances for providing electrical power service.
- (3) Mains, pipes, and other necessary works and appliances for providing gas service.
- (4) Poles, posts, wires, pipes, conduits, lamps, and other necessary works and appliances for lighting purposes.
- (5) Sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, culverts, bridges, curbs, gutters, tunnels, or viaducts, parks and parkways, recreation areas, including all structures, buildings and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended.
- (6) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels, or other appurtenances.
- (7) Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels and appurtenances.
- (8) Retaining walls, embankments, buildings, and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.
- (9) Compaction of land, change of grade or contours, retaining walls, drains, and other structures suitable for the purpose of stabilizing land.
- (10) Works, systems or facilities for the transportation of people, including rolling stock and other equipment appurtenant thereto.
- (11) The grading or regrading, the paving or repaving, the planking or re-planking, the macadamizing or re-macadamizing, the graveling or re-graveling, and the oiling or re-oiling of streets.
- (12) Acquisition, construction, improvement and equipping of temporary and permanent fire stations.
- (13) Acquisition, construction, improvement and equipping of temporary and permanent police stations.
- (14) Acquisition, construction, and installation of traffic signs, signals, lights, and lighting.
- (15) Public works maintenance facilities.
- (16) All other work auxiliary to any of the above which may be required to carry out that work including, but not limited to, the maintenance of public facilities projects and administrative, engineering, architectural, and legal work performed in connection with establishing, implementing, and monitoring public facilities projects.
- (17) Acquisition of any and all property, easements, and rights-of-way which may be required to carry out the purposes of the project.

**Property owners association.** An association of people who own property in a given area, formed for the purpose of improving or maintaining the quality of an area.

**Public hearing.** An adjudicatory proceeding held by the city council preceded by actual notice

to certain persons and at which certain persons, including the subdivider, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted.

**Public improvement.** Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the government may ultimately assume responsibility for, maintenance and operation of, or may constitute an improvement for which local government responsibility is established.

**Public meeting.** A meeting of the city council preceded by notice, open to the public and at which the public may, at the discretion of city council, be heard.

**Record.** To place a document or plat on file in the public records of the county.

**Recorded restriction.** A restriction that is contained or incorporated by reference in any plan, plat, replat or other instrument affecting a subdivision inside the city, which instrument has been duly recorded with the county clerk and which recorded restriction protects or tends to protect the residential character of the neighborhood where the subject property is located.

**Recording fee.** The charges required by the county for the placement of a document or plat on file in the public records.

**Registered engineer.** An engineer properly licensed and registered in the state.

**Registered land surveyor.** A land surveyor properly licensed and registered in the state.

**Residential unit.** A residential unit includes any structure which is used as a temporary or permanent residence and includes but is not limited to single-family homes, manufactured homes, mobile homes, recreational vehicles, and tiny homes.

**Restriction.** A limitation which affects the use to which real property may be used, fixes the distance buildings or structures are to be set back from property lines, street lines, or lot lines or affects the size of the lot or of the size, type and number of buildings or structures which may be built on the lot.

**Replat.** Any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded. The division or alteration of a tract or parcel of an existing subdivision, excepting lot consolidation and lot line adjustment.

**Right-of-way.** A strip of land of definite width occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. Every right-of-way hereafter established and shown on a final plat is separate and distinct from the lots or parcels adjoining such right-of-way and is not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on which such right-of-way is established.

**Road classification.** The designation of road categories and hierarchies for the purpose of providing for the development of the streets, highways, roads and rights-of-way in the city or its extraterritorial jurisdiction, and for their future improvement, reconstruction, realignment, and necessary widening, including provision for curbs, sidewalks, each existing street, highway, road and right-of-way, and those located on approved and filed plats (see figure 3).

**Road, dead end.** A road or portion of a road with only one vehicular traffic outlet.

**Road right-of-way width.** In a public road, the distance between the property lines abutting such



road measured at right angles to the centerline of the road (see figure 1).

*Sale or lease.* Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of an interest in a subdivision or part thereof, whether by metes and bounds or lot and block descriptions.

*Screening.* Either:

(1) A strip of at least ten feet wide of densely planted (or having equivalent natural growth) shrubs or trees at least four feet high at the time of planting of a type that will form a year-round dense screen at least six feet high; or

(2) An opaque wall or barrier or uniformly painted fence at least six feet high.

*Security.* The letter of credit or cash escrow provided by the subdivider to secure its promises in the subdivision improvement agreement.

*Service area.* The area for a particular category of public facilities within the jurisdiction of the city and within which impact fees for capital improvements will be collected for new development occurring within such area and within which fees so collected will be expended for those types of improvements for the category of public facility identified in the public facilities improvements program. A service area may be subdivided into sub-areas for purposes of assuring that impact fees collected and expended therein reasonably benefit new development within such areas.

*Setback lines.* A line parallel to and measured from a property line which establishes an area in which no building or structure, or portion thereof, shall encroach or otherwise be established or constructed. Setback line requirements refer to both sides and backs of lots (see figure 2).

*Shade tree.* A tree in a public place, street, special easement, or right-of-way adjoining a street as provided in these regulations.

*Sketch plat.* A sketch preparatory to the preliminary plat that enables the subdivider to save time and expense in reaching general agreement with the city council as to the form of the plat and the objectives of these regulations.

*State.* The State of Texas.

*Storm sewer.* An open ditch or underground enclosed conduit which purpose is to convey stormwater.

*Street, collector.* A street or road intended to move traffic from local roads to minor or major arterials. A collector road serves a neighborhood or large subdivision and should be designed, as far as possible, so that no residential properties face onto it (see figure 3).

*Street, frontage.* Any street to be constructed by the subdivider or any existing street where development shall take place on both sides (see figure 1).

*Street, local.* A street or road whose sole function is to provide access to abutting properties and to other roads from individual properties (see figure 3).

*Street, loop.* A type of local street or road that has its only ingress and egress points on the same collector street.

*Street, major.* A street, road, or arterial intended to move high volumes of traffic to and from major attractors (see figure 3).

*Street, minor.* A street, road, or arterial intended to collect and distribute traffic from collector streets to the system of the major arterials (see figure 3).

**Street, perimeter.** Any existing street to which the parcel of land to be subdivided abuts on only one side (see figure 1).

**Street, private.** A street or road located on land which is not in public ownership, but which may be open for public access. The establishment of any new private street requires a plat be submitted.

**Structure.** Anything constructed or erected.

**Subdivide.** The act or process of creating a subdivision.

**Subdivider.** Any person who:

- (1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who
- (2) Directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot, parcel, site, unit, or plat in a subdivision; or who
- (3) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision; and who
- (4) Is directly or indirectly controlled by, or under direct or indirect common control with any of the forgoing.

**Subdivision.** Any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms and conditions. Subdivision includes resubdivisions and condominium creations or conversion. A division of land under this regulation does not include a division of land into which all parts are greater than five acres, where each part has public access and no public improvement is being dedicated.

**Subdivision agent.** Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease or develop any interest, lot, parcel, unit, site, or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

**Subdivision coordinator.** The person or entity designated by the city council to coordinate the administration of these regulations.

**Subdivision improvement agreement.** A contract entered into by the subdivider and the city council on behalf of the municipality by which the subdivider promises to complete the required public improvements within the subdivision following final subdivision plat approval.

**Subdivision plat.** The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the city council for approval.

**Sublot of a mobile home park.** The area that is exclusively designed for an individual purchaser in a condominium regime or for an individual lessor in a mobile home park exclusive of all common elements, including private streets, private alleys, recreational open spaces, private/public easements and other facilities for common uses.

**Townhouse or townhome.** A single-family dwelling on a separate lot which fronts on a street or on a place or court which is attached to one or more similar dwellings by a common wall or walls and which in combination therewith constitute an architectural whole. In addition to individually owned lots as described herein, townhouse developments generally are cluster

developments or planned unit developments in which there is land, and in some cases, facilities that are owned in common by all of the townhouse owners within the same subdivision.

Tract. The term “tract” generally refers to the property being subdivided, particularly in the context of subdivision where a “tract” is subdivided into several lots, parcels, sites, units, plots, condominiums, or interests.

Vacation of subdivision. The resubdivision of land which results in the removal of a prior approved subdivision essentially creating a “clean slate.”

Variance. A waiver from compliance with a specific provision of these regulations granted to a particular property owner because of the practical difficulties or unnecessary hardship that would be imposed by the strict application of that provision of the regulation.

Vested rights. Right to initiate or continue a use or activity which will be contrary to a restriction or regulation coming into effect after the approval, initiation, or establishment of said use or activity.

### **SECTION 3. SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS**

#### **Sec. 3.01 Overall plat approval processes.**

(a) The preparation, submittal, review and approval of all subdivision plats in the city and its extraterritorial jurisdiction shall proceed through the following progressive stages:

- (1) Preliminary conference and sketch plat;
- (2) Preliminary plat approval; and
- (3) Final plat approval.

(b) No final plat shall be accepted for filing unless the subdivider fully complies with all requirements as set out herein (see figure 5). Any attempt to file a final plat with the city without completing these requirements shall be considered void and not constitute a filing.

#### **Sec. 3.02 Preliminary conference and sketch plat.**

(a) Purpose. The preliminary conference is an investigatory period which precedes actual preparation of preliminary plats by the subdivider. During this stage, the subdivider makes its intentions known to the city and is advised of specific public objectives relative to the subject tract and other details regarding platting procedures and requirements. In carrying out the purpose of the preliminary conference, the subdivider and the city shall each be responsible for the actions as described herein.

(b) Submission of sketch plat. The subdivider, or authorized agent, shall submit to the subdivision coordinator, a sketch plan, drawn to a scale of one hundred feet to the inch (1"=100'), unless another scale is justified by the size of the project. The sketch plan will include a general outline of the proposal including, but not limited to, location, land use, street and lot arrangement, lot sizes, proposals regarding water supply, sewage disposal, surface drainage and street improvements, and significant existing conditions, including, but not limited to, waterways, easements, and existing vegetation. The sketch plat shall also include a boundary survey, topographic survey and a preliminary conference drainage and detention report. For purposes of this section, a preliminary conference and drainage and detention report shall include:

- (1) This preliminary report should not be detailed design of facilities. It is

merely expected to be a realistic and conservative estimate of the major outfall and detention facilities only, at this earliest stage of planning.

(2) Accurately depict approximate proposed drainage areas, water flow areas, ditches and structures.

(3) Separately depict approximate proposed drainage areas, water flow areas, ditches and structures.

(4) Describe or depict major outfall and detention facilities that are likely necessary.

(5) Provide estimate of existing and proposed impervious cover, time of concentrations, hydrology and flow information.

(6) Implement 25- and 199-year calculations as per county criteria.

(7) Developer may request to implement the drainage and detention reporting requirements described in preliminary plat phase.

(c) Review of proposal. The subdivision coordinator shall discuss the proposal with the subdivider and advise of typical procedural steps, design and improvement standards, variance issues, and general plat requirements. Depending upon the scope of the proposed development, the subdivision coordinator shall proceed with the following:

(1) Review of the history of the parcel to include previous case information including a list of any permits or subdivisions requested and the subsequent action that are on record with the city, county and state.

(2) Review of the adequacy of existing or proposed schools, parks and other public spaces, if applicable.

(3) Review of the parcel's relationship to major streets, utility systems, and adjacent land uses, to observe any adverse conditions such as topography, utilities, flooding, etc.

(4) Determination of the need for preparation and review of the general plan in tandem to subsequent consideration of the preliminary plat and advise the subdivider if a development general plan is required.

(5) Determination if certain lands may not be subdivided, by reason of adverse topography, periodic inundation, adverse soils, subsidence of the earth's surface, high water table, lack of water or other natural or manmade hazard to life or property and adverse to the public health, safety or general welfare affected by such characteristics.

(d) General plan.

(1) Determination of need. The city subdivision coordinator shall use the preliminary conference period to determine the need for a general plan (see section 3.03(f)). The following conditions indicate the need for a general plan:

(A) The tract is sufficiently large to comprise an entire neighborhood;

(B) The tract initially proposed for platting is only a portion of a larger holding of the subdivider; part of a multi-phase subdivision; or

(C) The tract is part of a larger land area, the development of which is complicated by unusual topographic, utility, land use, land ownership

or other conditions;

(2) **Requirements for general plan.** If a general plan is required, the following information shall be submitted:

(A) General street pattern with particular attention to collector streets and future circulation throughout the neighborhood.

(B) General location and size of school sites, parks or other public areas.

(C) Location of shopping center, multifamily residential, or other proposed land uses.

(D) Methods proposed for wastewater disposal, water supply and storm drainage.

(E) Boundary survey.

(F) Topographic survey.

(G) Preliminary conference drainage and detention report. For purposes of this section, a preliminary conference and drainage and detention report shall include:

(i) This preliminary report should not be a detailed design of facilities. It is merely expected to be a realistic and conservative estimate of the major outfall and detention facilities only, at this earliest stage of planning.

(ii) Accurately depict existing drainage areas, water flow patterns, ditches and structures.

(iii) Separately depict approximate proposed drainage areas, water flow areas, ditches and structures.

(iv) Describe or depict major outfall and detention facilities that are likely necessary.

(v) Provide estimate of existing and proposed impervious cover, time of concentrations, hydrology and flow information.

(vi) Implement 25- and 100-year calculations as per county criteria.

(vii) Developer may request to implement the drainage and detention reporting requirements described in preliminary plat phase.

(e) **Review.** The subdivision coordinator shall prepare a report summarizing the findings and recommendations.

(f) **Approval.** The subdivision coordinator shall present the report to city council with a recommendation that the subdivider be issued a notice to proceed or a notice of noncompliance. If a notice to proceed is issued, the subdivider may proceed to prepare the preliminary plat approval.

### **Sec. 3.03 Preliminary plat approval.**

(a) **Application.** Applications for preliminary approval shall be made by the subdivider of all affected property and shall be submitted on a form obtained from the

subdivision coordinator. Applications shall be accompanied by a fee as prescribed below.

(b) Number of copies. Five (5) copies of the preliminary plat and of the general plan (if required) shall be submitted for review.

(c) Manner of depicting information. Preliminary plats are to be drawn to the scale of one hundred feet to the inch (1"=100') upon sheets 24"x36" inches, unless another scale is approved by the city council. The information required as part of the preliminary plat submittal shall be shown graphically or by notes on plans, or by letter, and may comprise several sheets showing various elements of required data. All mapped data for the same plat shall be drawn at the same standard engineering scale. The general plan (if required) shall be prepared to a scale and accuracy commensurate with its purpose.

(d) Filing fee. Applications to the city council for the approval of any preliminary plat shall be accompanied by a filing fee in the amount established by city council.

The city reserves the right to assess fees based upon the actual costs incurred by the city for multiple iterations of reviews of plats, and of construction plans and specifications. Fees charged shall be based upon rates posted and made available by the city engineer for inspection by the developer.

(e) Submission date and scheduling. The required data shall be submitted to the subdivision coordinator at least sixty (60) calendar days prior to the city council meeting at which preliminary approval is sought. Scheduling of the plat for city council review shall be dependent upon the adequacy of data presented and completion of processing.

(f) Required information. The preliminary plat of the entire development shall include the following information.

(1) Identification and description. All preliminary plats shall include:

(A) Proposed name of subdivision and its location.

(B) Bearings and dimensions of property lines of tract.

(C) Name, address, telephone and fax number of subdivider.

(D) Name, address, telephone, and fax number of engineer, surveyor, landscape architect, or land planner preparing the plat.

(E) Scale, north arrow, and date of preparation, including date of any subsequent revisions.

(F) A location map which shall show the relationship of the proposed subdivision to main traffic arteries and any other facilities which might help to locate the subdivision. This may be on the preliminary plat. If this is not practical, then a separate map showing title, scale, north arrow and date shall be provided. This map should be drawn at a scale of one inch to the mile (1"=5,280').

(G) Two copies of a preliminary title report illustrating current owner of record. If owner is not the subdivider, the subdivider shall provide a letter of authorization from owner. Such title report shall state whether the plat being submitted includes all of the contiguous land which the subdivider owns directly or indirectly, or has a legal or beneficial

interest in, or whether the subdivider owns or has a legal interest in any adjacent property. If the subdivider owns or has legal interest in any adjacent property, the extent of such ownership and a boundary description of the land involved must also be provided.

(2) Existing conditions. All preliminary plats shall include the following existing conditions data:

(A) Location of water wells, streams, canals, irrigation laterals, private ditches, washes, lakes or other water features; direction of flow; location and extent of areas subject to inundation, whether such inundation be frequent, periodic or occasional.

(B) Location, widths, and names of all platted streets, railroads, utility rights-of-way of public record, public areas, permanent structures to remain, including water wells, and municipal corporation lines within or adjacent to the tract.

(C) Name, book and page number of any recorded adjacent subdivisions having common boundary with the tract.

(D) By note, the acreage of the subject tract.

(3) Proposed conditions. All preliminary plats shall include the following proposed conditions data:

(A) Street layout, including location, width and proposed names of public streets, alleys, crosswalks, utility easements, driveways, sidewalks, pedestrian ways, off-street parking and loading areas, and connections to adjoining platted tract.

(B) Lotting and typical lot dimensions to scale, approximate dimensions of all corner lots and lots on curvilinear sections of streets, each lot numbered individually, and total number of lots.

(C) Designation of all land to be dedicated or reserved for public use with the use stated.

(D) Approximate location and dimensions of residential structures, and the number of dwelling units.

(E) A tabulation of the land area to be devoted to various uses, and a calculation of the average residential density per net acre.

(F) Major landscaping features, such as open space, greenbelts, or lakes.

(G) Relevant operational data of commercial or industrial development (if applicable), as it may impact or relate to surrounding land uses.

(H) Three (3) copies of any proposed restrictive covenants or deed restrictions (if applicable).

(4) Utilities. The preliminary plat shall include the following information with respect to proposed utilities:

(A) Existing sewers, water mains, culverts, or other underground structures within the tract or immediately adjacent thereto or copies of

city documents illustrating such structures.

(B) A statement as to the type of sewer, water, and stormwater facilities proposed shall appear on the preliminary plat.

(C) A drainage plan shall be provided with the preliminary plat that will include the following:

(i) Contour map of the area proposed to be developed and property adjacent to the development on all sides:

a. One-foot contour interval for ground slope of up to 5%.

b. Two-foot contour interval for ground slope between 5% and 10%.

(ii) Drainage area map showing all areas that drain through the area to be developed and each drainage area in the area to be developed.

(iii) Drainage layout sheets indicating the size and capacity of proposed outfall channels and drainage structures draining the development.

(iv) Proposed storm sewers, catch basins, and other drainage structures.

(v) Explanation of method used in calculations of flow data and design of stormwater facilities. Acceptable methods for the county will be accepted and must be appropriate for the size of development and watershed being considered. County methods may also be acceptable, as determined by the city engineer.

(vi) All portions of the development that are within the 100-year floodplain shall be clearly delineated on the drainage plan.

(vii) An impact analysis on all receiving streams and a plan for mitigating any significant negative downstream impact due to the development. The provisions of section 5.01(b)(6) of this ordinance (stormwater management) shall be addressed to indicate adequacy to receive watershed upstream existing condition flows as well as developed flows for the tract while imposing no adverse impact (increases in downstream water surface elevations for the 100-year event) on downstream tracks.

(viii) Proof that proposed drainage easements are sufficient for construction, access, and maintenance of the facilities required for draining the development.

(ix) Draft agreements for required off-site drainage easements across private and public lands outside the development, with evidence of correspondence by certified mail, return receipt requested. Signed agreements to be required with submission of final plat for review.

(5) Development schedule. A development schedule shall be included demonstrating that the subdivider intends to commence construction within one



year after the approval of the final subdivision plat, and will proceed diligently to completion. If it is proposed that the final development plan will be executed in stages, a schedule thereof shall also be required.

(g) Review.

(1) On receipt of the preliminary plat, the subdivision coordinator shall immediately record receipt thereof and check it for completeness. No plat shall be considered filed until the subdivision coordinator determines that the application is complete. A plat shall be deemed to be filed on the date the subdivision coordinator determines that it is complete and all necessary data has been submitted. If complete, the city subdivision coordinator shall perform its review of:

- (A) The proposed street system.
- (B) The lotting.
- (C) Street plans and compliance with city street standards.
- (D) Tentative determination of street and drainage improvements and maintenance requirements.
- (E) Water and sewage disposal proposals.

(2) The subdivision coordinator shall also distribute copies of the plat and general plan to the following reviewing offices:

- (A) County engineer.
- (B) City engineer.
- (C) County flood control engineer for review of drainage and flood control measures.
- (D) City council, or its designee, for review of streets and utilities.
- (E) City council, or its designee, for emergency access.
- (F) Building official.
- (G) Interested utility companies for information.
- (H) State department of transportation if the plat abuts a state highway.
- (I) United States Postmaster at Devers, Texas.
- (J) City Council, or its designee, for parks and drainage issues.

(3) The subdivision coordinator shall receive and summarize the available reviewing offices' recommendations, prepare a report, and present it to the city council within the 60-day period.

(h) Approval procedures.

(1) Upon receiving the recommendation of the subdivision coordinator, the city council shall consider and review the preliminary plat at the scheduled meeting and shall approve, conditionally approve, or disapprove the preliminary plat and general plan. The city council shall not approve the preliminary plat until all outstanding items noted by the subdivision coordinator, or the city engineer, or required by these subdivision regulations have been addressed. A

conditional approval allows the subdivider to prepare a final plat if the noted, specific changes are made. Upon acceptance, the general plan shall be attached to and filed with a copy of the approved final subdivision plat in the permanent files of the city. Thereafter, fractional preliminary plats of subsequent sections of such subdivision may be submitted without additional sketch plat approval. Any request for change to the general plan shall be submitted to the city council. The general plan shall expire three (3) years from the date of approval by the city council. Such approval may be extended for another three (3) years if the subdivider submits a letter prior to the expiration and after favorable review by the city council.

(2) Preliminary plat approval does not constitute an acceptance of the plat by the city for recordation, but is merely the approval to proceed with preparation of the final plat. Preliminary approval is based upon the following:

(A) Approval is valid for a period of six months from the date of the city council approval. A six-month extension of the preliminary plat approval may be granted by the city council upon receipt of a letter from the subdivider prior to the expiration date.

(B) The basic conditions under which approval of the preliminary plat are granted will not be substantially changed prior to the expiration date.

(C) Preliminary approval, in itself, does not assure final acceptance of streets for dedication nor constitute authorization to record the plat.

(D) No improvements, whether public or private, shall be installed prior to the approval of the final plat.

#### **Sec. 3.04 Final plat approval.**

(a) Application. Applications for final approval of the subdivision plat shall be made by the owner, or his authorized agent, and shall be submitted on a form obtained from the subdivision coordinator. Applications shall be accompanied by a fee as prescribed below.

(b) Number of copies. Five (5) copies of the final plat of the entire development are to be submitted.

(c) Manner of depicting information. Final plats shall be drawn upon sheets 24x36 inches to the scale of one hundred feet to the inch (1"=100'), unless another scale is approved by the city council. The information required as part of the final plat submitted shall be shown graphically or by note on plans, or by letter, and may comprise several sheets showing various elements of required data. All mapped data for the same plat shall be drawn at the same standard engineering scale.

(d) Filing fee. All applications to the city council for the approval of a final plat shall be accompanied by a filing fee in the amount established by city council.

The city reserves the right to assess fees based upon the actual costs incurred by the city for multiple iterations of reviews of plats, and of construction plans and specifications. Fees charged shall be based upon rates posted and made available by the engineering office for inspections by the developer.

(e) Submission date and scheduling. The required data shall be submitted to the subdivision coordinator at least sixty (60) calendar days prior to the city council meeting at which preliminary approval is sought. Scheduling of the plat for city council

review shall be dependent upon the adequacy of data presented and completion of processing. The subdivision coordinator shall make a recommendation to the city council once the subdivision coordinator determines the application to be complete and filed.

(f) Required information. The final plan shall show or be accompanied by the following information:

(1) Identification data.

- (A) Proposed name of subdivision and its location.
- (B) Bearings and dimensions of property lines of tract.
- (C) Name, address, telephone, and fax number of subdivider.
- (D) Name, address, telephone, and fax number of engineer, surveyor, landscape architect, or land planner preparing the plat.
- (E) Scale, north arrow, and date of preparation, including date of any subsequent revisions.
- (F) A location map which shall show the relationship of the proposed subdivision to main traffic arteries and any other facilities which might help to locate the subdivision. This may be shown on the plat. If this is not practical, then a separate map showing title, scale, north arrow and date shall be provided. This map should be drawn at a scale of one inch to the mile (1"=5,280').
- (G) Two copies of a preliminary title report illustrating current owner of record. If owner is not the subdivider, the subdivider shall provide a letter of authorization from owner.

(2) Survey data.

- (A) An accurate, on the ground boundary survey of the property with bearings and distances and showing the lines of all adjacent land, streets, easements, and alleys with their names and width. (Streets, alleys and lot lines in adjacent subdivision shall be shown dotted). All necessary data for the proposed improvements must be shown on the plat determined by an accurate survey in the field. All dimensions shall be expressed in feet and decimals thereof.
- (B) Topography by contours or "spot elevation" related to true elevation above mean sea level, as determined by the city engineer, shall be shown on the same map of the proposed subdivision layout. Contour intervals shall be such as to adequately reflect the character and drainage of the land, as specified below. The base data shall be clearly indicated and shall be compatible to city datum, if there are no adjacent benchmarks. The following intervals are required:
  - (i) One-foot contour intervals for ground slopes of up to 5%.
  - (ii) Two-foot contour intervals for ground slopes between 5% and 10%.
  - (iii) Five-foot contour intervals for ground slopes exceeding 10%.

All elements listed in this paragraph shall be characterized as existing or proposed.

(C) Any parcel reserves within the plat boundaries shall show all bearings and distances, as determined by an accurate survey. All dimensions shall be expressed in feet and decimals thereof.

(D) Location and description of cardinal points to which all dimensions, angles, bearings and similar data on the plat shall be referenced; each of two corners of the subdivision traverse shall be tied by course and distance to separate survey monuments approved by the city engineer.

(E) Location of all physical encroachments upon the boundaries of the tract.

(3) Certifications.

(A) Certification of the registered engineer or licensed surveyor who surveyed, mapped and monumented the land shall be placed on the face of the plat and shall include a statement that the plat is correct and accurate and that the monuments described in it have either been set or located as described. All maps shall include the seal and signature of civil engineer or land surveyor registered in the state.

(B) Certificate of approval to be signed by city council shall be placed on the face of the plat.

(C) Certificate of recordation by the county clerk.

(4) Dedication.

(A) A certificate of ownership and dedication of all streets, easements, alleys, park and playgrounds to public use forever, signed and acknowledged before a notary public by the subdivider and lienholder of the land shall be provided to city council.

(B) Where public streets or easements are shown crossing private easements or fee strips, the subdivider shall obtain from the holder of the private easement or fee strip an instrument granting to the public the use of said public streets or easements over and across said private easements or fee strips for construction, operation and maintenance of those public facilities normally using the type of public streets and easements indicated. This instrument shall be delivered to the city council to be recorded along with the final plat. The subdivider shall also provide to city council a letter from the holder of the private easement or fee strips in question stating that arrangements in pipelines, electric transmission lines, or other similar facilities have been made to the satisfaction of the holder of the easement.

(5) Descriptive data.

(A) Two (2) sets of plans and specifications for water, sewer, paving, and drainage prepared by a registered engineer, which must be submitted and reviewed by the city engineer prior to the submittal of final plat.

(B) Name, right-of-way lines, courses, lengths, widths of all public

streets, alleys, crosswalks and utility easements; radii, points of tangency and central angles of all curvilinear streets and alleys; radii of all rounded street line information; existing sewers, water mains, culverts, or other underground structures within the tract or immediately adjacent thereto.

(C) A letter from the servicing utility companies stating that the plat includes the easements required by each company furnishing utilities to this and future subdivisions.

(D) All drainage ways shall be shown on the plat.

(E) Location and all dimensions of all residential lots.

(F) All residential lots shall be numbered by consecutive numbers throughout the plat. "Reserves," "tracts," and "private parks" shall be so designated, lettered or named, and clearly dimensioned.

(G) Location, dimensions, bearings, radii, arcs and central angles of all sites to be dedicated to the public with the use clearly indicated.

(H) Location of all adjoining subdivisions with date, book and page number of recordation noted, or if unrecorded or undivided, so marked.

(I) Two copies of the deed restrictions (if applicable).

(J) If any part of the plat lies in a flood hazard area, then the 100-year flood elevation contour shall be drawn with a very heavy line and designated. The plat shall also show the following statement in print equal in size to the certificates of approval: "Parts of this plat lower than the 100-year flood elevation have a one percent (1%) chance each year of being inundated by flooding."

(K) The final plat shall be accompanied by a letter detailing any changes from the preliminary plat submitted to the city.

(g) Review.

(1) On receipt of the final plat, the subdivision coordinator shall immediately record receipt and date of filing and check it for completeness. If complete, the city subdivision coordinator shall review the plat for substantial conformity to the approved preliminary plat. If significant changes have been made, submission is required to the following:

(A) County engineer.

(B) City engineer.

(C) County flood control engineer for review of drainage and flood control measures.

(D) City council, or its designee, for review of streets and utilities.

(E) City council, or its designee, for emergency access.

(F) Building official.

(G) Interested utility companies for information.

(H) State department of transportation if the plat abuts a state highway.

- (I) United States Postmaster at Devers, Texas.
  - (J) City Council, or its designee, for parks and drainage issues.
- (2) The subdivision coordinator shall receive and summarize the available reviewing offices' recommendations, prepare a report, and present it to the city council, within the 45-day period.
- (h) Approval procedures.
- (1) Within 30 days of receiving the subdivision coordinator's recommendation, the city council shall consider and review the final plat at the scheduled meeting, whereupon the city council shall approve or disapprove the final plat. The 30 days shall not commence until all outstanding items noted by the subdivision coordinator, or the city engineer or required by these subdivision regulations have been addressed.
  - (2) If the city council rejects the final plat for any reason, the reasons shall be recorded in the city council minutes and the resolution.
  - (3) If the city council fails to approve or reject the plat within thirty (30) calendar days of submittal, the plat will be deemed to be approved.
  - (4) If the city council approves the final plat, the city secretary shall transcribe a signed certificate of approval upon the plat once all public improvements have been built and accepted by the city or a subdivision improvement agreement has been executed.
  - (5) When the certificate of approval of the city council has been transcribed on the plat and signed, the building official shall collect the appropriate recording fee from the subdivider and record the approved final plat in the office of the county clerk.

**Sec. 3.05 Short form final plats (combination preliminary and final plat).**

- (a) Approval of platting under the short form procedures eliminates the necessity for a preliminary plat as required in section 3.03. Application fees for short form platting shall be paid at the time of application.
- (b) A short form platting procedure may be requested if the final plat is authorized by the subdivision coordinator and meets the following requirements:
  - (1) No more than four (4) lots, tracts or reserves are included.
  - (2) The area to be platted lies within an existing public street circulation system already approved by the city council.
  - (3) The plat does not propose to vacate public street rights-of-way or easements.
  - (4) The plat does not propose creation or extension of public rights-of-way.
  - (5) The proposed development does not require any significant drainage improvements and, if contained wholly or partially within the 100-year floodplain, conforms to Federal Emergency Management Agency floodplain management rules.
  - (6) The proposed development is consistent with the thoroughfare plan and creates no significant traffic congestion on the existing public street system.

- (7) The short form plat shall meet all of the requirements for a final plat in section 3.04.

**Sec. 3.06 Minor plat.**

The minor plat, as specified in the Texas Local Government Code, may be used in a limited manner in order to create or adjust property lines and/or easements as defined in the plat for the purpose of development flexibility. The minor plat shall involve two or fewer lots on an existing street and shall not require the creation of any new street or extension of municipal facilities. The minor plat shall meet all the requirements of a short form final plat with the exception of approval by the subdivision coordinator and the building official may approve the minor plat. The building official may, for any reason, elect to forward the minor plat to the subdivision coordinator for review and approval. The building official must refer any minor plat, which he refuses to approve, to the subdivision coordinator for its consideration.

**SECTION 4. ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS**

**Sec. 4.01 Improvements and subdivision improvement agreement.**

(a) Completion of improvements.

- (1) As a condition of final plat approval, the developer shall either:

(A) Provide the city a performance bond, irrevocable letter of credit or other security agreement, in a form approved by the city, which guarantees that all public improvements shall be constructed in accordance with the plat, the construction plans, and the standards and specifications contained in this article in an amount equal to 120% of the cost of all improvements including unpaid engineering, surveying and administrative costs as certified by a registered professional engineer; or

(B) Record upon the final plat a notation as follows: "No building or other permit, except permits for construction of public improvements, will be issued by the city, for construction within this subdivision until such time as all public improvements of the subdivision have been constructed by the developer and accepted by the city council or the guarantee of construction of public improvements required by section 4.01 of the Subdivision Regulations ordinance of the City of Devers, Texas is submitted to and approved by the city." If the developer places this notation upon the final recorded plat of a subdivision in lieu of providing the security instrument, the city shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as all public improvements of the subdivision have been constructed and accepted by the city or a security instrument satisfying the requirements of subsection (g) of this section is submitted to and accepted by the city council.

- (2) Subdividers who choose to utilize this subsection may not construct any model homes which otherwise would have been allowed under section 1.13 of this ordinance.

- (3) Subdivisions located in the extra-territorial jurisdiction of the city who do not choose the option in subsection (a)(1)(A) above, may choose the option in subsection (a)(1)(B) above, provided they enter into a development agreement

with the city authorizing imposition of the then current building codes adopted by the city to the building in the subdivision and subjected the buildings to city building permitting and inspection processes and fees.

(4) Approval of the final plat shall in no way impose any duty upon the city concerning the acceptance or maintenance of any improvements until said improvements are accepted by the city council by ordinance in accordance with subsection (e) below.

(b) Costs of improvements. The subdivider shall pay all costs for providing the subdivision with streets, water, sanitary sewer, storm sewer and street lighting in accordance with the requirements of the subdivision plat and the requirements of this ordinance, and in accordance with plans and specifications for such improvements approved by the city council. In the event ornamental lighting standards are installed, the subdivider shall secure city council approval for the installation and use of such ornamental lighting standards.

(c) Failure to complete improvement. If the improvements are not completed within two (2) years of the date of the approval of the final plat by the city council, the plat shall be deemed to have expired. In those cases where security has posted, the city may require that all the improvements be installed regardless of the extent of the building development of the subdivision. The city may also exercise any other rights under the law.

(d) Acceptance of dedication offers. Acceptance of formal offers of dedication of streets, public areas, easements and parks shall be by ordinance by the city council. The approval of a subdivision by the city council, whether sketch, preliminary or final, shall not imply the acceptance by the city of any street, public area, easement and park shown on the plat. The city council shall have no duty, expressed or implied, to accept any offered dedication and may accept or reject the same in the exercise of legislative discretion as it shall so determine.

(e) Inspection of improvements. The installation of the approved improvements shall be subject to inspection and reviewed by the city council, or its designated agent, and all construction shall be in accordance with the approved plans and specifications before the city council will accept the subdivision or the improvements. The subdivider shall be responsible for reimbursing the City for the city's costs related to hiring an inspector or engineer to perform the inspection and any tests related thereto.

(f) Release or reduction of security.

(1) Certificate of satisfactory completion. The city council will not accept dedication of required improvements until the city engineer has submitted a certificate stating that all required improvements have been satisfactorily completed and until:

(A) The subdivider's engineer has certified to the city engineer through submission of the detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and other information required by the city council or city engineer, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision which shall be submitted by the subdivider's engineer in accordance with rules, practices and procedures applicable to registered engineers, and all documents filed with the city shall be under the engineer's seal.



(B) Final plat, construction drawings, amended plats, replats and minor plats shall be submitted to the city engineer in digital format, in addition to the originals and copies prescribed herein, conforming to the drawing standards of AutoCAD (.dwg) or MicroStation J (.dgn) on a compact disc (CD) after all modifications and corrections have been made and before the plat is recorded. The CD shall be given volume code of the subdivision name and the disc shall contain the owner, engineer and surveyor names, dates and telephone numbers.

(g) Maintenance bond. Subdivider shall be responsible for maintenance of all improvements for two years from the date they are accepted by the city, not from the date of final plat approval. As a condition of final acceptance of dedication and improvements, subdivider shall post a bond or other surety acceptable to the city in an amount equal to ten percent (10%) of the total improvements as certified by a registered professional engineer to ensure satisfactory completion of all necessary repairs. The bond required herein shall be issued by a bonding/insurance company authorized to do business in the state and shall be under such terms and conditions as shall be specified by the city. The carrier or maker of the bond shall first be approved by the city.

(h) Deferral or waiver of required improvements.

(1) The city council may defer or waive, at the time of acceptance, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not requisite in the interests of public health, safety and general welfare, or which are inappropriate because of the inadequacy or nonexistence of connecting facilities. Any determination to defer or waive the provision of any public improvement must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record.

(2) Whenever it is deemed necessary by the city council to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting utilities, or for other reasons, the subdivider shall pay its share of the costs of future improvements to the city or post suitable security secured by a letter of credit guaranteeing completion of the deferred improvements upon demand of the city council.

## **SECTION V. REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGNS**

### **Sec. 5.01 General improvements.**

(a) Conformance to applicable rules and regulations. In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:

(1) All applicable statutory provisions.

(2) All other applicable laws of the appropriate jurisdictions.

(3) Plat approval may be withheld if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in section 1.02 of this ordinance.

(b) Determination of adequacy. No preliminary plat shall be approved unless the city council determines that public facilities will be adequate to support and service the area

of the proposed subdivision. The subdivider shall submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on and use of public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy will include roads and public transportation, sewerage, water service, schools, police stations and fire houses, and as described as follows:

- (1) Guidelines. Periodically the city council will establish by resolution, after public hearing, guidelines for the determination of the adequacy of public facilities and services. The city council may also recommend any changes in preliminary plat approval criteria it finds appropriate in the light of its experience in administering these regulations.
- (2) Impact on public facilities. The subdivider for a preliminary plat must, at the request of the city council, submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on the use of public facilities and services by possible uses of said subdivision.
- (3) Comprehensive master plan consistency required. Proposed public improvements shall conform to the city's comprehensive plan and the capital improvements plans, if any such plans have been adopted by the city council.
- (4) Water. All habitable buildings and buildable lots within the city shall be connected to a water system capable of providing water for health and emergency purposes, including adequate fire protection. All habitable buildings must be connected to the city's water system if the city has the capacity and capability to provide said service.
- (5) Wastewater. All habitable buildings and buildable lots within the city shall be served by a wastewater collection and treatment system approved by the city engineer.
- (6) Stormwater management. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding. The city council may require the use of control methods such as retention or detention basins, and/or the construction of off-site drainage improvements to mitigate the impacts of the proposed development.
- (7) Roads. Proposed roads shall provide a safe, convenient, and functional road system for vehicular, pedestrian, and bicycle circulation; shall in the view of the city engineer, be properly related to the comprehensive plan; and shall be appropriate for the particular traffic characteristics of each proposed development.
- (8) Extension policies. All abutting improvements and easements, whether existing or proposed, shall be extended through or otherwise provided for by the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The city council may require the subdivider of a subdivision to extend off-site improvements to reach the subdivision or to oversize required public facilities to serve anticipated future development as a condition of plat approval. The cost of utilities which are required by the city to be larger than would normally be needed to serve the proposed addition will be partially reimbursed. The reimbursable amount will be the difference between

the cost of the facilities that would be adequate to serve the addition and the cost of the facilities required by the city. A reimbursement contract will be negotiated between the city council and the subdivider.

(9) Petition for annexation required. If water or sewerage services are to be provided by the city, then the subdivider for a final plat must petition for annexation to become part of the city as a further condition of final plat approval if located in the ETJ.

(c) Self-imposed restrictions. If the owner places restrictions on any of the land contained in the subdivision greater than those required by these regulations, such restrictions or reference to those restrictions shall be indicated on the subdivision plat, and be recorded with the county clerk in a form to be approved by the city attorney.

(d) Plats straddling municipal boundaries. Whenever access to the subdivision is required across land in another local government, the city council may request assurance from the city attorney that access is legally established, and from the city engineer that the access road is adequately improved, or that a guarantee has been duly executed and is sufficient in amounts to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

(e) Monuments. The subdivider shall place permanent reference monuments in the subdivision as required in these regulations and as approved by a registered land surveyor.

(1) Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corners. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits.

(2) The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete not less than thirty (30) inches in length, not less than four (4) inches square or five (5) inches in diameter, and marked on top with a cross, brass plug, iron rod, or other durable material securely embedded; or by iron rods or pipes at least thirty (30) inches long and two (2) inches in diameter. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along a meander line, those points to be not less than twenty (20) feet back from the bank of any river or stream, except that when such corners or points fall within a street, or proposed future street, the monuments shall be placed within the right-of-way line of the street.

(3) All internal boundaries and those corners and points not referred to in the preceding subsection (2) shall be monumented in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves, at a point where a curve changes its radius, and at all angle points in any line.

(4) The lines of lots that extend to rivers or streams shall be monumented in the field by iron pipes at least thirty (30) inches long and seven-eighths (7/8) inch in diameter or by round or square iron bars at least thirty (30) inches long. These monuments shall be placed at the point of intersection of the river or stream lot line, with a meander line established not less than twenty (20) feet back from the bank of the river or stream.

(5) All monuments required by these regulations shall be set flush with the ground and planted in such a manner that they will not be removed by flood.

(6) All monuments shall be properly set in the ground and approved by a registered land surveyor prior to the time the city council recommends approval of the final plat.

(7) One benchmark for each five (5) acres of property or fraction thereof shall be permanently installed in an approved manner, with their location and elevation as shown on the plat. Permanent benchmarks shall be five (5) feet long concrete posts, 6" in diameter with the top to be at least 12" below finish grade.

(f) Character of the land. Land that the city council finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features that will unreasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the subdivider and approved by the city council, upon recommendation of the city engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve any danger to public health, safety, and welfare.

(g) Subdivision name. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The city council shall have final authority to approve the name of the subdivision, which shall be determined at the time of sketch plat approval.

**Sec. 5.02 Lot improvements.**

(a) The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with all local regulations and in providing driveway access to buildings on the lots from an approved street.

(b) Lot dimensions shall comply with the following minimum standards (see figure 5).

**Figure 5. Minimum Lot Requirements**

Residential Type	Minimum Lot Areas	Minimum Lot Dimensions		Front Setback	Side Yard	Back Yard	Outside Side Yard/Corner Lot
		Inside Lot	Corner Lot				
Standard single-family residential Manufactured/mobile home (see provisions of manufactured/mobile home ordinance)	6,000 SF	60'(W) 100'(D)	75'(W) 100'(D)	20'	7.5' 15'***	10'	10'

Duplex	11,500 SF (see footnote B)	105'(W) 110'(D)	120'(W) 110'(D)	20'	7.5' 15'***	10'	10'
Townhouse or garden apartments	2,000 SF	20'(W) 100'(D)	35'(W) 100'(D)	5'	N/A	10'	10'
Patio homes	4,500 SF	45'(W) 100'(D)	55'(W) 100'(D)	5'	10'	10'	10'
Apartment complexes	8,000 SF	80'(W) 100'(D)	95'(W) 100'(D)	5'	N/A	10'	10'
Commercial type	6,500 SF	65'(W) 100'(D)	80'(W) 100'(D)	5'	N/A	10'	10'

\*Exception - Corner lots are required to be larger.

\*\*W =Width; D = Depth; width is measured at the front setback line.

\*\*\*Structure cannot be any closer than fifteen (15) feet to adjacent structures (e.g. house or business building).

Footnote A: Five (5) feet or (15'\*\*\*) side yard is required for unit(s) adjacent to single-family residence, manufactured/mobile home, or duplex unit.

Footnote B: Lot for duplex residential unit (two (2) dwellings).

(c) The following requirements (table A) establish minimum parking space requirements and standards for various subdivision and land use types.

**TABLE A**

Land Use	Parking Spaces
Single-family unit	2.0/unit
Duplex unit	2.0/unit
Triplex unit	2.0/unit
Fourplex unit	2.0/unit
Townhouses	2.0/unit
Apartments (5 or more units)	2.0/unit
Motels, similar uses	1.0/unit
Churches, theaters, and similar uses	1.0/5 seats
Retail establishments	1.0/300 SF gross floor area
Kindergartens, day nurseries	See (4) below
Other uses	Determined by review of city council

(1) Parking spaces shall be a minimum of nine (9) feet wide and eighteen (18) feet long.

(2) Required parking spaces shall not occur, wholly or partially, within public

rights-of-way.

(3) Parking areas for townhouses, apartments, or commercial areas shall be screened from adjacent duplex or single-family areas (including manufactured/mobile homes) by an opaque fence or hedge six (6) feet or higher.

(4) Parking spaces listed in table A do not include nor shall they be used for parking spaces required to adequately accommodate (off-street) employees or accommodate the storage of recreational vehicles, boats, etc.

(5) Parking patterns and arrangements shall conform to city engineering specifications and standards.

(d) The location of fencing, landscaping, structures, signs, parking areas, or other visual obstructions shall not be such as to occur within a triangular area formed by a horizontal distance of fifteen (15) feet measured along and from the intersection of right-of-way lines at street intersections.

(e) Only one (1) residential unit shall be allowed on any lot within the city's limits. Multiple residential units shall not be allowed on a single lot.

### **Sec. 5.03 Roads.**

(a) Frontage on improved roads. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from:

(1) An existing state, county, or city highway; or

(2) A street shown upon a plat approved by the city council and recorded with the county clerk. Such street or highway must be suitably improved as required by the highway rules, regulations, specifications, or orders, or be secured by a performance bond required under these regulations.

(3) Whenever the area to be subdivided is to utilize existing road frontage, the road shall be suitably improved as provided above.

(b) Right-of-way width requirements. The road right-of-way width for streets or roads as defined in this ordinance shall be as follows:

(1) Road or streets with curbs and gutters:

(A) Local (residential) streets: 50 feet width.

(B) Collector street: 60 feet width.

(C) Major (arterial) streets: 80 feet width.

(2) Roads or streets with open ditch drainage systems:

(A) Local (residential) streets: 60 feet width.

(B) Collector street: 70 feet width.

(C) Major (arterial) streets: 100 feet width.

(c) Grading and improvement plan. Roads and sidewalks shall be graded and improved and shall be approved as to design and specifications by the city engineer in accordance with the construction plans required to be submitted prior to final plat approval.

(d) Classification. All roads shall be classified as either major arterial, minor arterial, collector, or local.

(e) Roadway surface width. Roadway surface widths shall conform to standards set forth in this ordinance and shall be approved as to design and specifications by the city engineer in accordance with the construction plans required to be submitted prior to final plat approval. Alleys shall have a minimum width of twenty (20) feet. Local streets shall have a minimum width of twenty-two (22) feet. Collector streets shall have a minimum width of twenty-six (26) feet. Major streets shall have a minimum width of twenty-nine (29) feet.

(f) Topography and arrangement.

(1) Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid regimentation of lot appearance. All streets shall be arranged so as to place as many building sites as possible at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

(2) All streets shall be properly integrated with the existing and proposed system of thoroughfares.

(3) All roads shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

(4) Local streets shall be laid out to conform as much as possible to the topography to discourage through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.

(5) A rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or loop streets shall be encouraged where such use will result in a more desirable layout.

(6) Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the city council such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

(7) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic.

(g) Blocks.

(1) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths (see figure 1). Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads, or waterways.

(2) The length, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed the lesser of two thousand two hundred (2,200) feet or twelve (12) times the minimum lot width required in these regulations,

nor be less than four hundred (400) feet in length. The city engineer may require the submission of a traffic calming plan on blocks greater than 1,320 feet. Wherever practicable, blocks along major and minor arterials and collector streets shall be not less than one thousand (1,000) feet in length (see figure 1).

(3) In long blocks the city council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

(4) Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the city council through the center of blocks more than eight hundred (800) feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the city council for prospective use.

(h) Access to major arterials. Where subdivision borders on or contains an existing or proposed major arterial, the city council may require that access to such streets be limited by one of the following means (see figure 7):

(1) The subdivision of lots so as to back onto the major arterial and front onto a parallel local street; no access shall be provided from the major arterial, and screening shall be provided in a dedicated strip of land, of ten (10) foot minimum width, along the rear property line of such lots.

(2) A series of cul-de-sacs or short loops entered from and designed generally at right angles to such parallel street, with the rear lines of their terminal lots backing onto the major arterial.

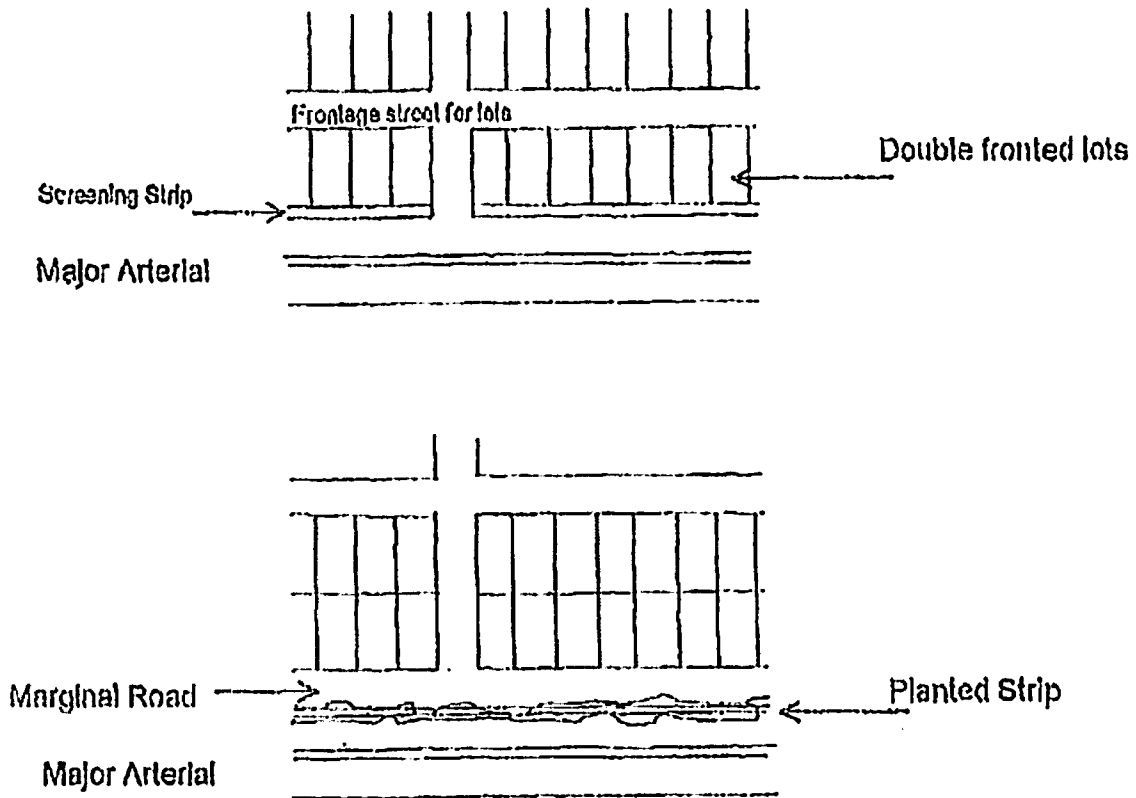
(3) A marginal access or service road (separated from the major arterial by a ten (10) foot minimum width planting or grass strip and having access at suitable points).

(i) Road names. The sketch plat as submitted need not indicate any names of proposed streets. The city council shall approve the names of all roads, as proposed by subdivider, upon recommendation of the city subdivision coordinator at the time of preliminary approval. The city subdivision coordinator shall consult the volunteer fire department and local postmaster prior to rendering its recommendation to the city council. Names shall be sufficiently different in sound and spelling from other road names in the municipality so as not to cause confusion. A road which is (or is planned as) a continuation of an existing road shall bear the same name.

(j) Road regulatory signs. The subdivider shall reimburse the local government at the time of final subdivision approval for each road sign required by the city engineer at all road intersections. The city or county shall install all road signs before issuance of certificates of occupancy for any residence on the streets approved. Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the city engineer.

**Figure 7. Options for relating subdivision lotting to major arterial**





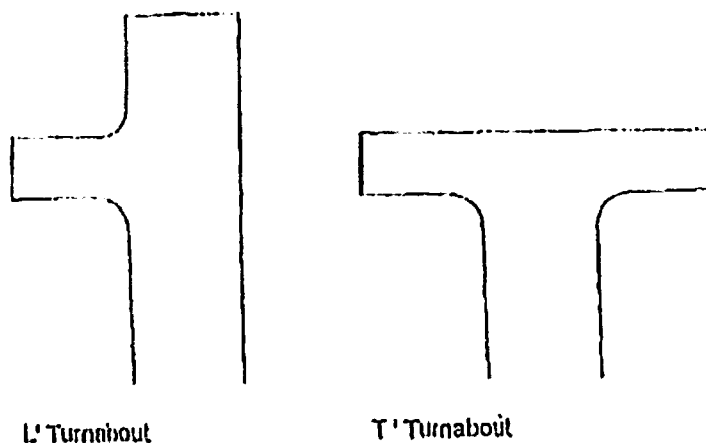
(k) Street lights. Installation of street lights shall be approved as to design and specifications by the city engineer in accordance with the construction plans required to be submitted prior to final plat approval.

(l) Construction of roads and dead-end roads.

(1) The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with the local traffic needs. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued (see figure 8). The city council may limit the length of temporary dead-end streets by recommendation of the city engineer.

(2) Dead-end roads (permanent). Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the city council for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the city council may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround at the end of a permanent dead-end street shall be approved as to design and specifications by the city engineer in accordance with the construction plans required to be submitted prior to final plat approval. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets may be limited in length by recommendation of the city engineer.

Figure 8.



(m) Design standards.

(1) General. In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, sanitation, and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are hereby required.

(2) Road surfacing and improvements. After sewer and water utilities have been installed by the subdivider, the subdivider shall construct drainage swales or curbs and gutters as approved in the plans, and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. All surfacing shall be of a character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. The type of pavement shall be concrete only and shall be approved as to design and specifications by the city engineer in accordance with the construction plans required to be submitted prior to final plat approval. Adequate provision shall be made for culverts, drains, and bridges. Culverts shall have vertical concrete headwalls when located on local streets and safety ends when located in other streets. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks shall conform to all construction standards and specifications adopted by the city council and city engineer and shall be incorporated into the construction plans required to be submitted by the subdivider for plat approval. No variance may be granted allowing for road surfacing other than concrete.

(3) Excess right-of-way. Right-of-way widths shall be required in excess of standards designated in these regulations whenever, due to topography, additional width is necessary, as determined by the city engineer, to provide adequate grade or slope.

(4) Railroads and limited access highways. Railroad right-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

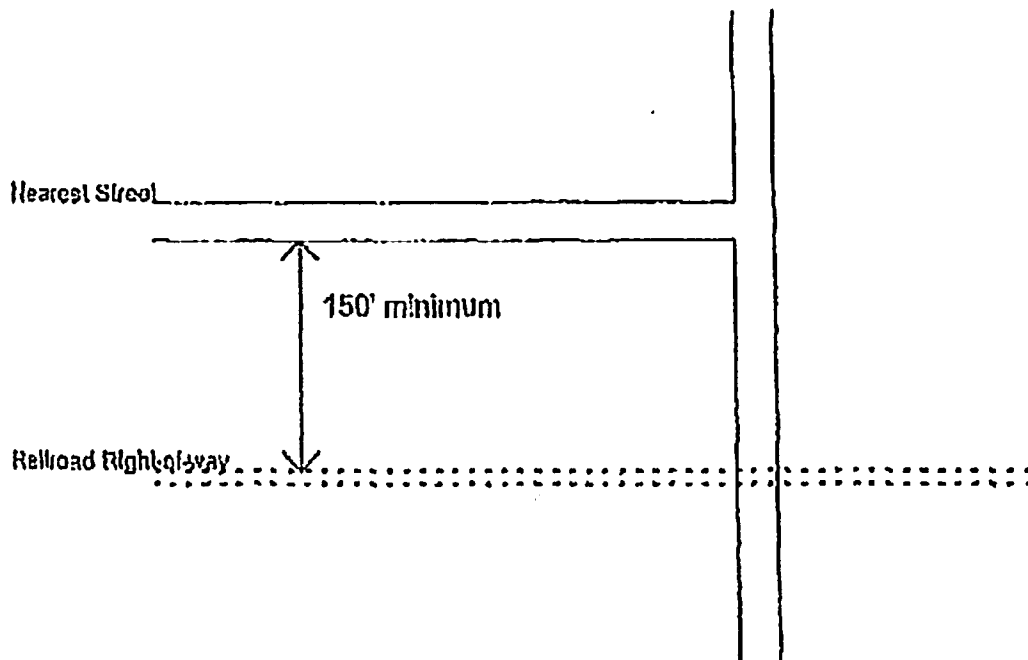
(A) In residential districts a buffer strip at least twenty-five (25) feet in depth in addition to the normal depth of the lot required in the district

shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures on this land is prohibited."

(B) In areas of business, commercial, or industrial uses the nearest street extending parallel or approximately parallel to the railroad right-of-way shall, wherever practicable, be at a sufficient distance from the railroad right-of-way to ensure suitable depth for commercial or industrial sites.

(C) When streets parallel to the railroad right-of-way intersect a street which crosses the railroad right-of-way at grade, they shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way (see figure 9). Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

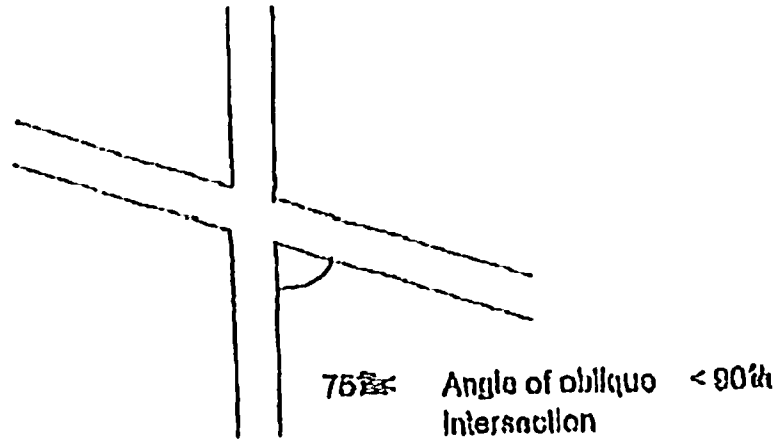
**Figure 9.**



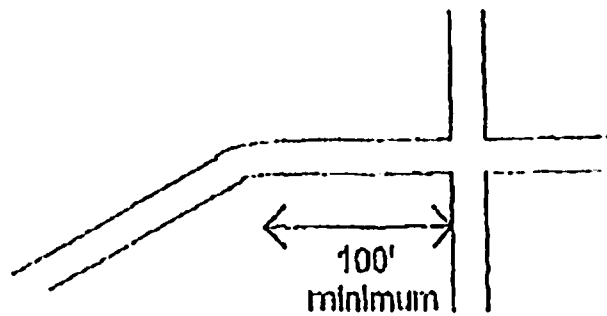
(5) Intersections.

(A) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two (2) new streets at an angle of less than seventy-five (75) degrees shall not be acceptable (see figure 10). An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom (see figure 11). Not more than two (2) streets shall intersect at any one point unless specifically approved by the city council.

**Figure 10.**

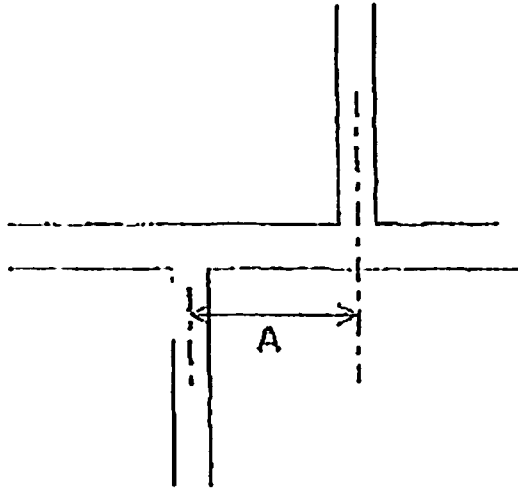


**Figure 11. Street intersection requirements**



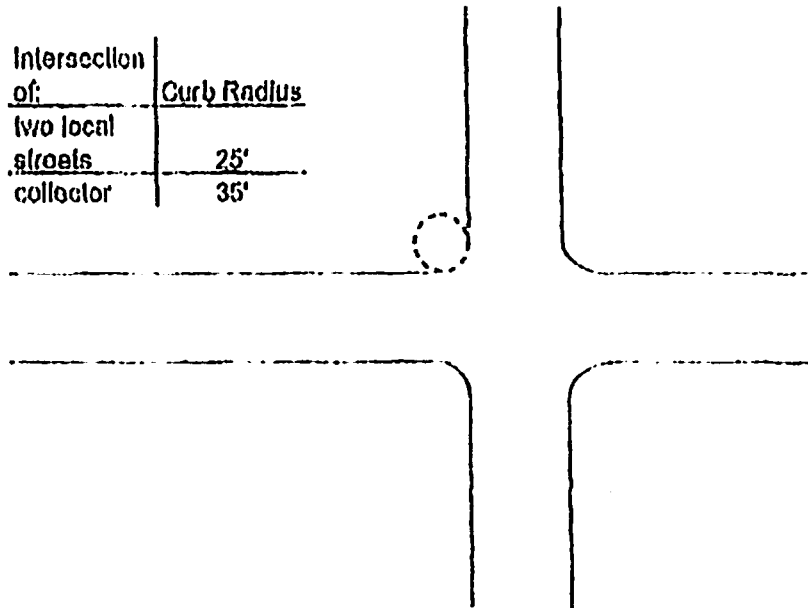
(B) Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred (800) feet apart (see figure 12).

**Figure 12. Minimum street offset requirements**



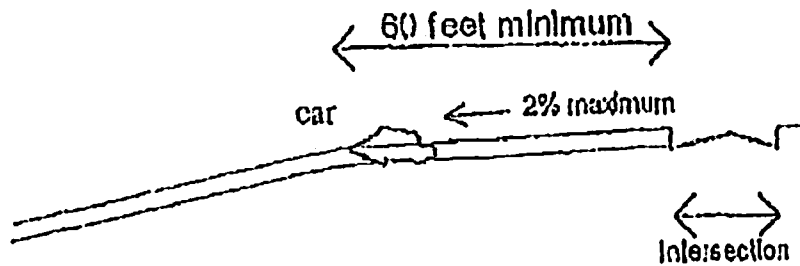
(C) Minimum curb radius at the intersection of two (2) local streets shall be at least twenty-five (25) feet; and minimum curb radius at an intersection involving a collector street shall be at least thirty-five (35) feet (see figure 13). Alley intersections shall have a 15' corner cut-back to permit safe vehicular movement.

Figure 13.



(D) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street (see figure 14).

Figure 14



(E) Street intersections shall provide an adequate visibility triangle for vehicular sight lines, as recommended by the city engineer. The cross-slopes on all streets, including intersections, shall be three percent (3%) or less.

(6) Bridges. Bridges of primary benefit to the subdivider, as determined by the city council, shall be constructed at the full expense of the subdivider without reimbursement from the city. The sharing of expense for the construction of bridges not of primary benefit to the subdivider, as determined by the city council, will be fixed by special agreement between the city council and the subdivider. The cost of bridges that do not solely benefit the subdivider shall be charged to the subdivider pro rata based on the percentage obtained by dividing the service area of the bridge into the area of the land being developed by the subdivider.

(7) Road dedications and reservations.

(A) New perimeter streets. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The city council may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within its own subdivision boundaries.

(B) Widening and realignment of existing roads. Where a subdivision borders an existing narrow road or city plans for realignment or widening of a road would require use of some of the land in the subdivision, the subdivider shall be required to dedicate at its expense those areas for widening or realignment of those roads. Frontage roads and streets as described above shall be dedicated by the subdivider at its own expense to the full width as required by these regulations when the subdivider's development activities contribute to the need for the road expansion. Land reserved for any road purposes may not be counted in satisfying yard or area requirements whether the land is to be dedicated to the municipality in fee simple or an easement is granted to the city.

(8) Private streets.

(A) Private streets may be permitted if the use of private streets will preserve the aesthetic environmental qualities of the subdivision while providing property owners with a safe, functional and lasting means of

access. The design and approval of private streets shall promote driver and pedestrian safety by improving movement along streets and ingress and egress for properties adjacent thereto. Generally, as the widths of streets and vehicular speeds increase, the number of private street connections thereto should decrease. Private streets shall be designed in accordance with traffic engineering principles and practices as applied to existing and anticipated conditions, particularly the land uses to be served and the configuration of the thoroughfare itself. Adequate space shall be provided in the private street right-of-way or reserved adjacent thereto to allow for street and utility maintenance. Private streets that are obstructed by gates or chains and where no watchman is present twenty-four (24) hours a day, seven (7) days a week, shall provide at its entrance(s) a standard 911 lockbox for access into the gated private streets by police, fire and emergency medical services.

(B) Private streets within multiunit residential projects, mobile home parks or condominiums, intended to serve more than one unit, shall conform to the design requirements of the city and the city engineer including right-of-way width requirements.

(C) If such private streets are used within a multiunit residential project, mobile home park or condominium and serve more than one unit, then a property owners association (POA) shall be established within 30 days of final plat approval. Such property owners association shall be responsible for the maintenance of the private roads. Such articles of creation ("articles") of the property owners association shall be filed with the building official of the city. Such articles shall provide for automatic mandatory assessments to the property owners served by the private street and such articles shall make specific obligations for the maintenance of the infrastructure as necessary to meet minimum city standards for such improvements if they are located in the city's jurisdiction. Such private road shall be dedicated to the property owners association.

(D) The articles of the homeowners association shall require homeowner assessment sufficient to meet the necessary annual cost of the improvements that are calculated by the city engineer and shall provide that assessments are not subject to subrogation to mortgage lenders. Further, the articles shall provide that the board of directors shall be required to expend money for the improvements and repairs to maintain all infrastructures under its jurisdiction. Further, the articles shall require that board of directors file with the city annual reports of maintenance and that the board of directors shall be required to initiate any and all repairs in a timely manner as shall be identified by either the board or the city, and that the treasurer of the property owners association shall be required to post a surety bond in an amount not less than 200% of all the monies on deposit with the POA for maintenance.

This subsection (private streets) is made specifically subject to Sec. 1.11, entitled "Variances, exceptions, and waiver of conditions."

#### **Sec. 5.04 Drainage and storm sewers.**

(a) General requirements.

(1) The city council shall not recommend for approval any plat or subdivision that does not make adequate provision for storm and floodwater runoff channels or basins. The stormwater drainage system shall be separate and independent of any sanitary sewer system.

(2) Storm sewer facilities are required with curb and gutter streets unless an exception is granted by city council pursuant to Sec. 1.11.

(3) Storm sewers, where required, shall be designed by method approved by the city engineer, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than 250 feet in the gutter or swale, as applicable. When calculations indicate that curb or swale capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

(4) The stormwater drainage system (open ditch and curb and gutter) shall be consistent throughout each phase of development of the subdivision. No mixing of stormwater drainage system (open ditch and curb and gutter) shall be allowed on the opposite side of the same street, and in no event shall open ditch drainage and curb and gutter drainage be mixed in the same block.

(b) Nature of stormwater facilities.

(1) Location. The subdivider may be required by the city council to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of, the subdivision. Such drainage facilities shall be located in the road right-of-way, or with an exception granted by city council pursuant to Sec. 1.11 in perpetual, unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

(2) Accessibility to public storm sewers.

(A) Where a public storm sewer is accessible, the subdivider shall install storm sewer facilities. If no outlets are within a reasonable distance, adequate provision shall be made for the disposal of stormwater, subject to the specifications of the city engineer. In subdivisions containing lots smaller than one-half acre and with a frontage less than 90', and in business and industrial areas where a public storm sewer is accessible, underground storm sewer systems shall be constructed throughout the subdivision and be conducted to an approved outfall. Inspection of facilities shall be conducted by the city engineer.

(B) If a connection to a public storm sewer will be provided eventually, as determined by the city engineer and the city council, the subdivider shall make arrangements for future stormwater disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.

(3) Accommodation of upstream drainage areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from



its entire upstream drainage area, whether inside or outside the subdivision. The subdivider's engineer shall determine the necessary size of the facility subject to the review and approval by the city engineer based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development.

(4) Effect on downstream drainage areas. The city engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. County and city drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the city council may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No net increase in stormwater runoff will be allowed to occur as a result of the site development unless recommended by the city engineer and approved by city council. No subdivision shall be approved unless adequate drainage as recommended by the city engineer and approved by city council is provided.

(5) Areas of poor drainage. Whenever a plat is submitted for an area that is subject to flooding, the city council may approve such subdivision provided that the subdivider fills the affected area of the subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twelve (12) inches above the elevation of the one hundred (100) year floodplain, as determined by the city engineer. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by the city engineer. The city council may deny subdivision approval for areas of extremely poor drainage.

(6) Floodplain areas. Development of floodprone areas is prohibited except as permitted in these regulations. Subdivision of floodprone areas is prohibited where the cost of providing utilities and governmental services would pose an unreasonable economic burden. The location, elevation, and construction of all utilities and facilities, such as sewer, gas, electrical, and water systems and streets shall be in such manner as to minimize or eliminate damage by flooding. No platted residential lot shall be approved that does not contain a suitable building site of sufficient elevation to permit construction utilizing a first floor elevation above the level of the 100-year flood as determined by the city engineer. The city council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading or clumping of earth, waste material, or stumps, except at the discretion of the city council.

(7) Drainage easements shall be designed to allow sufficient access in order to provide for the use of heavy equipment and shall be approved as to design and specifications by the city engineer in accordance with the construction plans.

required to be submitted prior to final plat approval.

(c) Dedication of drainage easements.

(1) General requirements. When a subdivision is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(2) Drainage easements.

(A) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements according to design and specifications by the city engineer and in accordance with the construction plans required to be submitted prior to final plat approval for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.

(B) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(C) The subdivider shall dedicate, either in fee or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the city council.

(D) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways.

(E) Easements shall be noted on plat: "This easement shall be kept clear of fences, building, planting, and other obstructions to the operations and maintenance of the drainage facility, and abutting property shall not be permitted to drain this easement except by means of an approved drainage structure."

**Sec. 5.05 Water facilities.**

(a) General requirements.

(1) When a public water main is not accessible, the subdivider shall take necessary action to extend or create a water-supply district for the purpose of providing a water-supply system capable of providing for domestic water use and fire protection.

(2) When a public water main is accessible, the subdivider shall install adequate water facilities (including taps and fire hydrants) subject to the specifications of the city engineer. All water mains shall be at least six (6) inches in diameter.

(3) Water main extensions shall be reviewed and approved by the city engineer.

(4) The location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat, and the cost of installing same shall be borne by the subdivider and included in the subdivision improvement agreement and security to be furnished by the subdivider.

(b) Individual wells and central water system.

(1) In the extraterritorial jurisdiction, in subdivisions with a density of one unit per acre or less and when public water system is not available, or at the discretion of the city council, individual wells may be used or a central water system provided in a manner so that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the health department for its approval, and individual wells and central water systems shall be approved by the appropriate health authorities. Approvals shall be submitted to the city council prior to final subdivision plat approval.

(2) If the city council requires that a connection to a public water main be eventually provided as a condition of approval of an individual well or central water system, the subdivider shall make arrangements prior to receiving final plat approval for future water service. Performance or cash bonds may be required to ensure compliance.

(c) Fire hydrants. Fire hydrants shall be required for all subdivisions and shall be located no more than 600 feet apart and within 300 feet of any structure and shall be approved by the city council or its designee. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

**Sec. 5.06 Sewerage facilities.**

(a) General requirements. The subdivider shall install sanitary sewer facilities and taps in a manner prescribed by construction standards and specifications determined by the city engineer. All plans shall be designed and approved in accordance with the rules, regulations, and standards of the city engineer, health department, and the county and other appropriate agencies.

(b) High-density residential and nonresidential areas. Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted. Sanitary sewerage facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations, and guidelines of the health officer, city engineer, and state commission on environmental quality.

(c) Low- and medium-density residential areas. Sanitary sewerage systems shall be constructed as follows:

(1) When a public sanitary sewerage system is reasonably accessible, the subdivider shall connect with same and provide sewers accessible to each lot in the subdivision.

(2) When public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed fifteen (15) years), the subdivider may choose one of the following alternatives:

(A) Central sewerage system with the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the subdivider shall install the sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or

(B) Individual disposal systems, provided the subdivider shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line, and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.

(3) When sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the subdivider may install sewerage systems as follows:

(A) Medium-density residential areas. Only a central sewerage system may be constructed. No individual disposal system will be permitted. Where plans exist for a public sewer system to be built, for a period in excess of fifteen (15) years, the subdivider shall install all sewer lines, laterals, and mains to be in permanent conformance with such plans and ready for connection to such public sewer main.

(B) Low-density residential areas. Individual disposal systems or central sewerage systems shall be used.

(d) Mandatory connection to public sewer system. If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley abutting upon property, the owner of the property shall be required to connect to the sewer for the purpose of disposing of waste, and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system. Any mobile home lot or subplot which is part of a master lot must be served by public sanitary sewer.

(e) Individual disposal system requirements. If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the state commission on environmental quality and percolation tests and test holes shall be made as directed by the city health officer. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device, shall also be approved by the health officer.

(f) Design criteria for sanitary sewers.

(1) General guidelines. These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances when considered justified by the city engineer.

(2) Design factors. Sanitary sewer systems should be designed for the

ultimate tributary population. Due consideration should be given to current regulations and approved planning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented below should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria:

One/two-family dwellings	0.02 cfs/acre
Apartments	
One and two story	0.02 cfs/acre
Three through six story	0.03 cfs/acre
Commercial	
Small stores, offices and miscellaneous business	0.02 cfs/acre
Shopping centers	0.02 cfs/acre
High rise	As directed by city engineer
Industrial	As directed by city engineer

Cfs=cubic feet per second

The design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 1,000 acres unless otherwise directed by the city engineer. Design factors for watersheds larger than 1,000 acres shall be .01 cfs/acre unless otherwise directed by the city engineer.

(A) Maximum size. The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the city engineer.

(B) Minimum size. No public sewer shall be less than eight (8) inches in diameter.

(C) Minimum slope. All sewers shall be designed to give mean velocities when flowing full of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an N value of 0.013. The design slopes shall be evenly divisible by four (4). The slopes shall be minimum for the size indicated. Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving under thirty (30) houses. Sewers at the upper end shall have a minimum slope of 0.76 percent. When lateral sewers serve less than ten (10) houses, the minimum slope shall be not less than one (1) percent. (See table below.)

Minimum Slopes for Sewers

<u>Sewer Size</u>	<u>Minimum Slope</u>
(inches)	(feet per 100

	feet)
8	0.60
10	0.44
12	0.36
15	0.28
18	0.24
21	0.20
24	0.16

(D) Alignment. All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the city engineer.

(E) Manhole location. Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections; and at distances not greater than 400 feet for sewers 15 inches and smaller, and 500 feet for sewers 18 inches in diameter and larger.

(F) Manholes. The differences in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches except where required to match crowns. The use of drop manholes will require approval by the city engineer. The minimum inside diameter of the manholes shall conform to those specified by the city engineer. Inside drop manholes will require special considerations; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.

(G) Sewerage locations. Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-way when possible. Imposed loads shall be considered in all locations. Not less than six (6) feet of cover shall be provided over the top of pipe in street and alley rights-of-way or three (3) feet in all other areas.

(H) Cleanouts and lampholes. Cleanouts and lampholes will not be permitted.

(I) Water supply interconnections. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

(J) Relation of sewers to water mains. A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten

(10) feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two (2) feet above the sewer.

**Sec. 5.07 Sidewalks; required improvements.**

- (a) A ten-foot sidewalk easement shall be reserved in the outer section of both sides of the dedicated non-pavement right-of-way of all streets, regardless of whether sidewalks are being built or not. These sidewalk easements shall be used for the sole purpose of sidewalk construction and maintenance.
- (b) Sidewalks shall be graded and improved as required in Sec. 5.03(c) of these regulations in conformance with the standards of the city. A median strip of grassed or landscaped areas at least four (4) feet wide shall separate all sidewalks from adjacent street pavement.
- (c) Pedestrian accesses. The city council may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds, or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.

**Sec. 5.08 Utilities.**

- (a) Location. All utility facilities, including but not limited to gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision except those which are located in easements approved by city council. Whenever existing utility facilities are located above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the city council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.
- (b) Easements.
  - (1) Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least sixteen (16) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.
  - (2) When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least sixteen (16) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

**Sec. 5.09 Public uses.**

- (a) Parks, playgrounds, and recreation areas.
  - (1) Park dedication fee required.
    - (A) The city council shall require that the subdivider deposit with the city a park dedication fee. Such deposit shall be placed in a

neighborhood park and recreation improvement fund established by the city council. The deposit shall be used by the city for improvement of a neighborhood park, playground, or recreation area including the acquisition of property. The deposit must be used for facilities that actually will be available to and benefit the persons in the subdivision for which payment was made and be located in the general neighborhood of the subdivision.

(B) The park dedication fee shall be in the amount established by city council. The full amount of the fee is payable over the next three years from date of approval of the final plat of the subdivision, as follows: one-third (1/3) of total amount to be paid on the first anniversary of approval of the final plat; one-third (1/3) to be paid on the second anniversary of approval of the final plat; and one-third (1/3) to be paid on the third anniversary of the final plat. A ten percent (10%) discount will be given if the full amount of the fee is paid at the time of approval of the final plat. In the event the subdivider elects to pay the fee out over a period of three (3) years, the subdivider shall put up a bond in a form approved by the city attorney with a licensed surety in the state in the full amount of the fee.

(2) Alternative procedure: land in lieu of park dedication fee.

(A) The city council may, at its discretion, accept the donation of land in lieu of a park dedication fee. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the city council. The area shall be shown and marked on the plat, "reserved for park, and/or recreation purposes."

(B) When recreation areas are required, the city council may require the provision of one (1) acre for every thirty (30) dwelling units. The city council may refer such proposed reservations to the city department in charge of parks and recreation for recommendation. The subdivider shall dedicate all such recreation areas to the city as a condition of final subdivision plat approval.

(3) Recreation sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes, and shall be relatively level and dry; and shall be improved by the subdivider to the standards required by the city council, which improvements shall be included in the subdivision improvement agreement and security. The city council may refer any subdivision proposed to contain a dedicated park to the city department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to the city for park purposes shall have prior approval of the city council and shall be shown marked on the plat, "reserved for park and/or recreation purposes."

(4) Other recreation reservations. The provisions of this section are minimum standards. None of the subsections above shall be construed as prohibiting a subdivider from reserving other land for recreation purposes in addition to the requirements of this section. In the event the



subdivider elects to set aside additional lands for parks, maintenance of said parks shall be the responsibility of the subdivider or the homeowners association, unless accepted by the city council.

(b) Other public uses.

(1) Plat to provide for public uses. Except when a subdivider sets aside land as required by the provisions of these regulations, whenever a tract to be subdivided includes a school, recreation uses per subsections (a)(3) and (4) above, or other public use as indicated on the comprehensive plan or any portion thereof, the space shall be suitably incorporated by the subdivider into its sketch plat. After proper determination of its necessity by the city council and the appropriate local government official or other public agency involved in the acquisition and use of each such site and a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the subdivider into the preliminary and final plats.

(2) Referral to public body. The city council shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The city council may propose alternate areas for such acquisition and shall allow the public body or agency thirty (30) calendar days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.

(3) Notice to property owner. Upon a receipt of an affirmative report, the city council shall notify the property owner and shall designate on the preliminary and final plats that area proposed to be acquired by the public body.

(4) Duration of land reservation. The acquisition of land reserved by a public agency on the final plat shall be initiated within twelve (12) months of notification, in writing, from the owner that he intends to develop the land. Such letter of intent shall be accompanied by the sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed 12 months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with these regulations.

**Sec. 5.10 Preservation of natural features and amenities.**

Existing features that would add value to residential development or to the local government as a whole, such as trees, as herein defined, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be encouraged to be preserved in the design of the subdivision.

**Sec. 5.11 Nonresidential subdivisions.**

(a) General. If a proposed subdivision includes land for commercial or industrial purposes, the layout of the subdivision shall make provision as the city council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the city council, and shall conform to the proposed land use and standards established in the comprehensive plan and official map.

(b) Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to

the satisfaction of the city council that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- (1) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
- (3) Special requirements may be imposed by the local government with respect to street, curb, gutter, and sidewalk design and construction.
- (4) Special requirements may be imposed by the local government with respect to the installation of public utilities, including water, sewer, and stormwater drainage.
- (5) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including careful placement of noise and light sources, and the provision of extra depth in parcels backing up on existing or potential residential development with permanently landscaped buffer strips.
- (6) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

## **SECTION 6. READJUSTMENT OF LAND**

### **Sec. 6.01 Resubdivision of land.**

- (a) **Procedure.** Whenever a subdivider desires to resubdivide an already approved final subdivision plat, the subdivider shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land.
- (b) **Resubdivision.** Resubdivision includes:
  - (1) Any change in any street layout or any other public improvement;
  - (2) Any change in any lot line;
  - (3) Any change in the amount of land reserved for public use or the common use of lot owners;
  - (4) Any change in any easements shown on the approved plat.
- (c) **Notice.**
  - (1) Notification of a resubdivision and a public hearing must be held if:
    - (A) During the preceding five years, any portion of the area proposed to be resubdivided was limited by either an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
    - (B) Any lot in the plat to be resubdivided was limited by deed restrictions to residential use for not more than two residential units per lot.
  - (2) If notification is required, the city council shall provide published notice in a newspaper of general circulation in the county, personal written notice to

property owners in the original subdivision plat, as shown on the most recent county appraisal district certified roll, and personal written notice to any land owner within 400 feet of the property to be resubdivided. The notice shall include:

- (A) The name and legal description of the subdivision affected by the application;
- (B) The proposed changes in the final subdivision plat;
- (C) The place and time at which the application and any accompanying documents may be viewed by the public;
- (D) The place and time at which written comments on the proposed resubdivision may be submitted by the public;
- (E) The place and time of the public meeting at which the city council will consider whether to approve, conditionally approve, or disapprove the proposed resubdivision.

(3) No sooner than fifteen (15) calendar days and no later than thirty (30) calendar days after the notice is sent, the city council shall consider the application for resubdivision at a public meeting and shall approve, conditionally approve, or disapprove the application.

(d) Procedure for subdivisions when future resubdivision is indicated. Whenever land is subdivided and the subdivision plat shows one or more lots containing more than one (1) acre of land and there is reason to believe that such lots eventually will be resubdivided, the city council may require that the subdivider allow for the future opening of streets and the ultimate extension of existing streets. The establishment of easements providing for the future opening and extension of streets may be made required for plat approval.

#### **Sec. 6.02 Plat vacation.**

(a) Owner-initiated plat vacation. The owner or owners of lots in any approved subdivision, including the subdivider, may petition the city council to vacate the plat with respect to their properties.

(1) Notice and hearing. The city council shall provide published notice in a newspaper of general circulation in the county, personal written notice to property owners in the subdivision as shown on the most recent county appraisal district certified roll, and personal written notice to any land owner within 400 feet of the subdivision. The notice shall include the time and place for a public hearing on the vacation petition. The public hearing shall be held no sooner than fifteen (15) calendar days and no later than thirty (30) calendar days after the written notice is sent.

(2) Criteria. The city council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare; but in no event may the city council approve a petition for vacation if it will materially injure the rights of any nonconsenting property owner, or any public rights in public improvements unless expressly agreed to by the city council.

(3) Recordation of revised plat. Upon approval of any petition for vacation, the city council shall direct the subdivider to prepare a revised final subdivision

plat in accordance with these regulations. The revised final subdivision plat may be recorded only after having been signed by the city council.

(4) Subdivider-initiated vacation. When the subdivider of the subdivision or its successor, owns all of the lots in the subdivision or its successor owns all of the lots in the subdivision, the subdivider or successor may petition for vacation of the subdivision plat and the petition may be approved, conditionally approved, or disapproved at a regular public meeting of the city council subject to the criteria in subsection (1) above. Regardless of the city council's action on the petition, the subdivider or its successor will have no right to refund on any monies, fees or charges paid to the city nor the return of any property or consideration dedicated or delivered to the municipality except as may have been previously agreed to by the city council and the subdivider or successor.

(b) City-initiated plat vacation.

(1) General conditions. The city council, on its motion, may vacate the plat of an approved subdivision when no lots within the approved subdivision have been sold within five years from the date that the plat was signed by the city council.

(2) Procedure. Upon any motion of the city council to vacate the plat of any previously approved subdivision, in whole or in part, the city council shall provide published notice in a newspaper of general circulation in the county, personal written notice to property owners in the subdivision as shown on the most recent county appraisal district certified roll, and personal written notice to any land owner within two hundred (200) feet of the subdivision. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be held no sooner than fifteen (15) calendar days and no later than thirty (30) calendar days after the personal notice is sent.

(3) Recordation of notice. If the city council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution with the county recorder. If the city council adopts a resolution vacating a plat in part, it shall record a copy of the resolution as described above and cause a revised final subdivision plat to be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

(c) Fees. Fees for the filing of vacation plats are as established by city council.

**Sec. 6.03 Lot consolidation and lot line adjustment.**

Lot consolidation may be accomplished without replatting, providing the following procedure is followed:

(1) Regulations. Lot line adjustments may be made without replatting when approved by the city council and conforming to the following:

(A) No more than three (3) lots shall be affected by the proposed lot line adjustments.

(B) No such adjustment shall alter any public right-of-way or public easement and no such adjustment shall create any lot smaller than the smallest lot within the recorded subdivision involved.

(C) Lot line adjustments shall also be subject to the following:

- (i) Concurrence of all owners of property affected by the lot line adjustment.
  - (ii) The proposed adjusted lot line shall be a single, straight line or be parallel to the existing lot line.
  - (iii) The lot line adjustment will be at a maximum of ten (10) feet average from the existing lot line.
  - (iv) The lot line adjustment shall not be inconsistent with any provision of recorded subdivision restrictions or covenants.
- (2) Procedure. The following shall be submitted to the city council five (5) calendar days prior to the city council meeting at which action is sought:
- (A) Completed application for lot line adjustment form available at the city hall, accompanied by filing fee in the amount established by city council.
  - (B) Copies of deeds and restrictive covenants to all lots involved.
  - (C) Scale drawing on legal size paper showing all lots and structures involved, as platted, and as desired.
- (3) Scheduling. The city council shall consider and review the application at its first regularly scheduled meeting after its submission. The city council shall approve, conditionally approve, or disapprove the application. Action of the city council shall be final and no proposal regarding the same lots shall be considered for a period of six (6) months.

**SECTION 7. WIRELESS TELECOMMUNICATIONS FACILITIES (NOT IN THE PUBLIC RIGHTS-OF-WAY)**

**Sec. 7.01 Applicability; permit required.**

- (a) Every wireless communication facility located within the city limits and its ETJ, whether upon private or public lands, that is not located in public rights-of-way, is subject to this ordinance, except that the following facilities are exempt:
- (1) Amateur radio station operator/receive-only antenna if owned and operated by a federally licensed amateur radio station operator or used exclusively for a receive only antenna;
  - (2) Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter in diameter;
  - (3) Wireless communication facilities used exclusively for emergency services including police, fire, and operation of water utility, when not located on a new freestanding antenna support structure (e.g. tower or dedicated pole); and
  - (4) A temporary, commercial WTF installed for providing coverage of a special event such as news coverage or sporting event, subject to administrative approval by the city. The WTF shall be exempt from the provisions of this chapter for up to one week before and after the duration of the special event.
- (b) Permit required. Any individual or business seeking to install, modify, or collocate a wireless telecommunications facility within the city or its ETJ must first obtain a permit from the city. The city council shall establish a cost for said permits

from time to time.

**Sec. 7.02 Definitions applicable to this Section.**

**Antenna.** Communications equipment that transmits, receives or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

**Array.** One or more antenna mounted at approximately the same level above ground on a tower or base station.

**Base station.** A structure or equipment at a fixed location that enables licensed or authorized wireless communications between user equipment and a communications network. The term does not include a tower. The term includes, but is not limited to, a building, clock tower, bell steeple, sign, utility pole, water storage tank, silo and other similar mounting structures that may be used for the purpose of supporting and obscuring the presence of antennae.

**City Council.** The City Council of the City of Devers, Texas.

**City of Devers.** The City of Devers, Texas, a Type B general-law municipality.

**Collocation.** The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

**Deemed approved.** Refers to an eligible facilities modification application that has been deemed approved upon the city's failure to act, and has become effective, as provided pursuant to the FCC Eligible Facilities Request Rules.

**Eligible facilities request.** The term means the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(3), as may be amended, which defines that term as "any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) Collocation of new transmission equipment;
- (2) Removal of transmission equipment; or
- (3) Replacement of transmission equipment."

**Eligible support structure.** A tower or base station as defined in this section, provided it is existing at the time the application is filed with the local government, which is eligible for collocation.

**Engineered fall zone.** The area in which a support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

**Existing.** The term has the same meaning as provided in 47 C.F.R. § 1.40001(b)(4), as may be amended, which provided that "a constructed tower or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition."

**Federal Communications Commission ("FCC").** An independent United States government agency responsible for the regulation of interstate and international communications by radio, television, wire, satellite, and cable.

**Height, structure.** Telecommunications support structure height shall be measured from ground level (finished grade) to the top of the structure. Measurement of tower structure height for the

purpose of determining compliance with the requirements of this article shall include the structure, foundation, and any facilities attached thereto which extend above the top of the structure.

***Personal wireless service.*** As used in this chapter, shall be defined in the same manner as in title 47, United States Code, section 332(c)(7)(c), as they may be amended now or in the future, and includes facilities for the transmission and reception of radio or microwave signals used for communication, cellular phone, personal communications, services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless service facilities.

***Section 6409(a).*** Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended.

***Section 6409(a) modification.*** Any eligible facilities request that does not cause a substantial change and submitted for approval pursuant to section 6409(a) and the FCC's regulations at 47 C.F.R. § 1.40001 et seq.

***Site.*** The current boundaries and any access or utility easements of the leased or owned property surrounding the tower.

***Spectrum act.*** Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act, 47 U.S.C. § 1455(a) (providing, in part, "... a state or local government may not deny, and shall approve, any eligible facilities request for a modification of any existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.")

***Stealth technology or Stealth facility.*** As used in this division, the term shall mean design technology that blends the WTF into the surrounding environment, so it is unrecognizable as a telecommunications facility; examples of stealth facilities include but are not limited to architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements such as church spires or window wall, and antenna structured designed to resemble light poles or flagpoles.

***Substantial change.*** A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- (1) For existing towers not in the public rights-of-way:
  - (A) An increase in the height of the tower by more than 10% or by the height of one additional antenna array with the separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;
  - (B) The addition of any appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet (20'), or more than the width of the tower at the level of the appurtenance, whichever is greater;
  - (C) Any excavation or deployment outside the current site;
  - (D) It would defeat the concealment elements of the structure; or
  - (E) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, however, this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the Code of Federal Regulations CFR 47, chapter 1, subchapter A, part 1, 1.40001(b)(7)(i) through (iv).

- (2) For base stations not in the public rights-of-way:
- (A) An increase in the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;
  - (B) The addition of any appurtenance that would protrude from the edge of the structure by more than six (6) feet;
  - (C) The installation of more than four (4) new equipment cabinets;
  - (D) Any excavation or deployment outside the current site; or
  - (E) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, however, this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in the Code of Federal Regulations CFR 47, chapter 1, subchapter A, part 1, 1.40001(b)(7)(i) through (iv).

**Support structure.** Any tower or base station as defined in this section.

**Tower.** Any structure built for the sole or primary purpose of supporting any authorized antennas and their associated facilities, including structures that are constructed for wireless communication services, including but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

**Transmission equipment.** Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply.

**Wireless.** Any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.

**Wireless telecommunications facilities (WTF's).** Towers, base stations and other structures utilized to house or support antennae and related equipment for radio, television, microwave, cellular phone, digital phone, wireless internet, and other wireless communications services. Noncommercial television or internet antennae and amateur radio antennae are not governed by this section.

### **Sec. 7.03 Application submittal requirements.**

- (a) **Application contents.** To make application for a wireless telecommunications facility permit, including collocating on an eligible support structure or adding transmission equipment to an alternative structure, the following is required except for eligible facilities requests.
- (1) Completed application for site review and application fee submitted to the permits department.
  - (2) A drawing and any supporting documents that identifies:
    - (A) The location of existing applicant-owned wireless telecommunication facilities in the county;
    - (B) The type and height of each existing facility;
    - (C) The current proposed facility;
    - (D) The type and height of the proposed facility;



(E) At least three collocation alternatives to the applicant's own development along with proof of a genuine effort in collocating on or attaching to an existing support structure; a certified letter addressed to potential lessors is recommended in addition to evidence that demonstrates that no existing tower or support structure can accommodate the applicant's proposed WTF. Any of the following may be submitted as evidence:

(i) No existing structures are located within the geographic area required to meet applicant's engineering requirements.

(ii) Existing structures are of insufficient height to meet applicant's engineering requirements.

(iii) Existing structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

(iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing structures, or the antenna on the existing structures would cause interference with the applicant's proposed antenna.

(v) The fees, costs, or contractual provisions required by the owner in order to share an existing structure or to adapt an existing support structure for sharing are unreasonable. Costs exceeding those for new tower development are presumed to be unreasonable.

(vi) The applicant demonstrates that there are other limiting factors that render existing structures unsuitable. It is not necessary to reveal future plans or locations for additional proposed facilities. The plan will assist the city in understanding the need for any new wireless telecommunication facility, assess the land use impacts, and aid in comprehensive land use planning.

(3) Visual impact analysis; presented by one of two methods, photographs or drawings. In either case, four views or elevations shall be submitted looking toward the site (typically north, south, east, and west) including site and the surrounding properties measured from the center point of the tower out to a distance equal to three times the height of the proposed tower. This drawing will depict a "skyline" view showing the entire height of the proposed tower and the surrounding structures, trees, or any other objects contributing to the skyline profile. The applicant shall draw the proposed tower directly on the photographs in black ink.

(4) Proof of compliance with FCC regulations.

(5) Notification of an impending environmental assessment required by the National Environmental Protection Agency (NEPA) and a copy when the assessment is completed (if applicable).

(6) A letter addressed to the city declaring an intent and willingness to build out a proposed tower to allow at least two other service providers.

(7) Copies of a site plan (the site plan is not the same as the WTF facility plan) as per site development review committee requirements, including signature lines for both the owner of the WTF and/or the owner of the property indicating an agreement to remove the entire WTF and any related equipment within 60 days of abandonment. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer. Upon receipt of the above items, the city will process the application and review the site plan.

(b) Applications for eligible facilities requests. The city council shall provide for the preparation of and make publicly available an application form which shall require the information necessary for the city council to consider whether an application is an eligible facilities modification request.

#### **Sec. 7.04 Review procedures.**

(a) Eligible facilities request.

(1) Purpose. This section implements section 6409(a) of the Spectrum Act, 47 U.S.C. section 1455 (a) as interpreted by the FCC in its Report and Order No. 14153, which requires a state or local government to approve any eligible facilities request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. Eligible facilities requests shall be governed solely by the provisions in this section and federal law.

(2) Application review.

(A) Upon receipt of a complete application for an eligible facilities request pursuant to this section, the city will review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.

(B) Within 60 days of the date on which an applicant submits a complete application seeking approval of an eligible facilities request under this section, the city will review and act upon the application, subject to the tolling provisions below.

(C) The 60-day review period begins to run when the application is filed and may be tolled only by mutual agreement between the city and the applicant, or in cases where the city determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications. To toll the timeframe for incompleteness, the city must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the city's notice of incompleteness. Following a supplemental submission, the city will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(D) In the event the city fails to approve or deny a complete application under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. Deemed granted does not become effective until the applicant notifies the city in writing that the review period has expired.

(3) Findings for approval. The city council may approve a section 6409(a) modification when it finds that the proposed collocation or modification qualifies as an eligible facilities request and does not cause a substantial change.

(4) Grounds for denial. In addition to any other alternative recourse permitted under federal law, the city council may deny a section 6409(a) permit when it finds that the proposed collocation or modification:

- (A) Violates any legally enforceable standard or permit condition reasonably related to public health and safety;
- (B) Involves a structure constructed or modified without all regulatory approvals required at the time of the construction or modification;
- (C) Involves the replacement of the entire support structure; or
- (D) Does not qualify for mandatory approval under section 6409(a) for any lawful reason.

(5) Notice. Before the city council may approve any application for a section 6409(a) modification, notice of the application shall be provided in accordance with this subsection.

(A) Required notice method. Notice shall be posted on the project site.

(B) Notice content. The notice shall include the following information:

(i) A general explanation of the proposed modification or collocation;

(ii) The following statement: "Federal law may require approval for the application. Further, Federal Communications Commission regulations may deem this application granted by the operation of law unless the city approves or denies the application, or the city and applicant reach a mutual tolling agreement"; and

(iii) A general description, in text or by diagram, of the location of the real property that is the subject of the application.

(C) All section 6409(a) permit denials are without prejudice. Any denial of a section 6409(a) permit application shall be without prejudice to the applicant, the real property owner or the project. All section 6409(a) modifications are subject to review and approval or denial of a section 6409(a) permit by the city council in accordance with this chapter. section 6409(a) applications are exempt from historic landmarks commission review; provided however, that section 6409(a) modifications must comply with all prior conditions of approval related to concealment or reasonably related to public health and safety.

(D) Section 6409(a) permit appeals. Subject to applicable federal

timeframes for local review, any person or entity may file a written appeal to the city council to reverse the city council's final decision to approve or deny without prejudice a section 6409(a) permit application. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The appellant must pay a fee established by a resolution of the city council at the time the appeal is filed.

(b) Collocation applications.

(1) Purpose. This section implements, in part, 47 U.S.C. section 332(c)(7) of the Federal Communications Act of 1934, as amended, as interpreted by the FCC in its Report and Order No. 14153.

(2) Application review.

(A) Upon receipt of a complete application for a collocation request pursuant to this section, the city will review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.

(B) Within 90 days of the date on which an applicant submits a complete application seeking approval of a collocation request under this section, the city will review and act upon the application, subject to the tolling provisions below.

(C) (i) The 90-day review period begins to run when the application is filed and may be tolled only by mutual agreement between the city and the applicant, or in cases where the city determines that the application is incomplete.

(ii) To toll the timeframe for incompleteness, the city must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the city's notice of incompleteness. Following a supplemental submission, the city will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this section. Second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.

(D) In the event the city fails to approve or deny a complete application under this section within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.

(3) New site or tower applications.

(A) Purpose. This section also implements, in part, 47 U.S.C. section 332(c)(7) of the Federal Communications Act of 1934, as amended, as

interpreted by the FCC in its Report and Order No. 14153.

(B) Application review.

(i) Upon receipt of a complete application for a request for a new site or tower pursuant to this section, the city will review such application, make its final decision to approve or disapprove the application, and advise the applicant in writing of its final decision.

(ii) Within 150 days of the date on which an applicant submits a complete application seeking approval of a request for a new site or tower under this section, the city will review and act upon the application, subject to the tolling provisions below.

(iii) a. The 150-day review period begins to run when the application is filed and may be tolled only by mutual agreement between the city and the applicant, or in cases where the city determines that the application is incomplete.

b. To toll the timeframe for incompleteness, the city must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the city's notice of incompleteness. Following a supplemental submission, the city will notify the applicant within 10 days if the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this Section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(iv) In the event the city fails to approve or deny a complete application under this section within the timeframe for review (accounting for any tolling), the applicant shall be entitled to pursue all remedies under applicable law.

**Sec. 7.05 General standards and design requirements.**

The site development requirements for WTFs follow the normal standards for any other type of development according to the city's local ordinances. However, additional standards apply to these sites as follows:

(1) Additional setbacks and separation requirements. The following standards are applicable to all wireless telecommunications facilities:

(A) To protect citizens, towers shall be placed a tower height distance away from any residential or commercial structure.

(B) Towers shall be placed a tower height distance away from any lot boundary line.

(C) To minimize the number of towers per square mile, a tower shall

be placed a minimum of one (1) mile from any other towers.

(D) Towers shall not be placed within the city's downtown district.

(2) Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate antilimb device.

(3) Special aesthetic and lighting standards.

(A) New transmission towers located within a one (1) mile radius of any residential or commercial structures shall use stealth technology to create a stealth facility.

(B) All other transmission towers shall either be stealth facilities or maintain a galvanized steel finish or be painted in accordance with any applicable standards of the FAA.

(C) The design of the related buildings and equipment shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the facility to the natural setting and built environment.

(D) If an antenna is installed on a support structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(E) WTFs shall not be artificially lighted except for motion detectors as security lighting, and a light at the top of the structure as a warning for aircraft, unless otherwise required by the FAA or other applicable authority. If lighting is required, the city may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding properties.

(4) Landscaping and screening requirements. The following requirements shall govern the landscaping and screening for a transmission tower or any parabolic antenna larger than two meters.

(A) Tower compounds shall be landscaped with a buffer of plant materials that effectively screens the base of the WTF site from view of the public right-of-way. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound. A screening fence may be used in part to screen a WTF but must be in addition to the required landscaping.

(B) Certain parabolic dishes attached to the ground shall be screened from public right-of-way by a combination of siting at or behind the imaginary front line of the most major structure on site (largest in gross floor space) and landscaping a four feet wide strip between the dish and right-of-way.

(C) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, where towers are sited on large, wooded parcels, natural growth around the site perimeter may be a sufficient buffer.

(D) It is the responsibility of the WTF owner to maintain any required landscaping.

(5) Parking and access. All proposed transmission towers shall provide a point of access from right-of-way which is in conformance with city driveway standards. No off-street parking is required.

**Sec. 7.06 Use of consultant.**

(a) The city reserves the right to employ the services of a telecommunications consultant and/or expert to review any application or information supplement to an application when the city council, in its discretion, determines that the information provided by the applicant is beyond the technical capacity of the city staff to review. In certain instances, there may be a need for expert review by a third party of the technical data submitted by the applicant.

(b) The selection of the third-party consultant shall be at the sole discretion of the city, with a provision for the applicant and interested parties to review its qualifications. The applicant shall pay the cost for any consultant fees, through a deposit, estimated by the city, but not to exceed five thousand dollars (\$5,000.00) per WTF, which is to be paid within ten (10) days of the city's written request. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the city council, city staff, or interested parties.

(c) Based on the results of the third-party consultant's review, the city council may determine the application to be incomplete and may require supplemental submissions. The expert review of the technical submission shall address the following:

- (1) The accuracy and completeness of submissions;
- (2) The applicability of analysis techniques and methodologies;
- (3) The validity of conclusions reached;
- (4) Any specific technical issues designated by the city; and
- (5) Recommendations of the consultant.

(d) The report and recommendations of the consultant will be considered by the city council and city staff.

**Sec. 7.07 Bonding.**

Prior to the issuance of a building permit for a wireless telecommunications facility, the applicant shall:

(1) Submit to the city an itemized cost estimate of the work to be done to completely remove the entire telecommunications facility including the concrete pad plus twenty-five percent (25%) of said estimated costs as a reasonable allowance for administrative costs, inflation, and potential damage to existing roads or utilities.

(2) Submit a bond, irrevocable letter of credit, or other appropriate surety acceptable to the city in the amount of the estimate as approved by the city council which shall:

(A) Secure the cost of removing the facility and restoring the site to its original condition to the extent reasonably possible;

(B) Include a mechanism for a cost of living adjustment after ten (10) and fifteen (15) years.

(3) The applicant will ensure the bond shall remain in effect until the building official has inspected the site and verified that the wireless telecommunications facility and equipment has been removed and the site restored. At which time the city council shall promptly release the bond.

**Sec. 7.08 Removal, maintenance and safety.**

(a) The applicant shall maintain the wireless telecommunications facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and tower or base station structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present. The project owner shall be responsible for the cost of maintaining the wireless telecommunications facility and access road if present, unless accepted as a public way, and the cost of repairing any damage occurring as a result of operation and construction.

(b) Any wireless telecommunications facility that is found to be unsafe by the building official shall be repaired by the owner to meet federal, state, and local safety standards or disassembled and completely removed, including the concrete pad, within sixty (60) days.

(c) Any wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owners of the system shall completely remove the wireless telecommunications facility within sixty (60) days of receipt of notice from the city instructing the owner to remove the facility. If there are two or more users of a single wireless telecommunications facility, then this provision shall not become effective until all users cease operations on the facility.

(d) The applicant shall notify the city council within thirty (30) days of the date the wireless telecommunications facility is no longer used for telecommunications purposes. The tower or base station shall be disassembled and completely removed, including the concrete pad and all equipment, from the site within one hundred eighty (180) days of the date the facility is no longer used for telecommunications purposes.

**Sec. 7.09 Federal and state requirements.**

All wireless telecommunications facilities shall meet or exceed all applicable federal and state standards and regulations set forth by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC) and other agencies with the authority to regulate such facilities. If such standards and regulations are changed, then the owners and operators of the wireless telecommunications facilities governed by this division shall bring such telecommunications facilities into compliance as required. Failure to comply with federal and state standards and regulations shall constitute grounds for condemnation and removal of the noncompliant facilities by the city at the owner's or operator's expense.

**Sec. 7.10 Revocation of conditional use permits.**

All conditional use permits for wireless communications facilities are subject to and conditioned upon compliance with all conditions of approval and all applicable federal, state, or local licensing or regulatory requirements, and may be revoked upon failure to so comply.

**Sec. 7.11 Violation deemed nuisance.**

In addition to the penalties and other relief provided in this ordinance, any violation of this article is hereby declared to be a nuisance and may be abated.



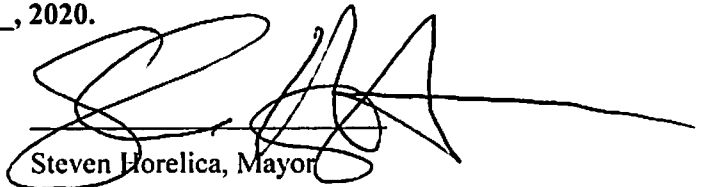
**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Devers, Liberty County, Texas, that this Ordinance shall become effective upon signature by the Mayor, or, if not signed or vetoed by the Mayor, upon expiration of the time for ordinances to become law without the signature by the Mayor.

**BE IT FURTHER ORDAINED** that if any provision or item of this ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this ordinance which can be given effect without the invalid provisions, items or applications, and to this end the provisions of this ordinance are hereby declared severable.

**BE IT FURTHER ORDAINED** that all ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above and foregoing ordinance shall be in full force and effect from and after its adoption, approval and publication, as provided by law.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Devers, this the 14<sup>th</sup> day of July, 2020.



Steven Horelica, Mayor

**ATTEST:**



Kristi Ayers, City Secretary