

Chapter 24 - PLATTING AND SUBDIVISIONS

ARTICLE I. - IN GENERAL

Sec. 24-1. - Scope—Planning commission approval; activity within.

Before any plan, plat or replat of a subdivision or addition of land inside the city shall be recorded with the county clerk of the county wherein the property is situated, it shall first be approved by the planning and zoning commission of the city in conformity with Texas Local Government Code Title VII—Regulation of Land Use, Structures, Businesses, and Related Activities and the provisions of this chapter. No transfer of land in the nature of a subdivision as defined herein shall be exempt from the provisions of this chapter even though the instrument or document of transfer may describe land so subdivided by metes and bounds. The filing of any plans, plat or replat without complying with the requirements of this chapter, or the transfer of land by the filing of any instrument in the nature of a conveyance without having first complied with the requirements of this chapter, shall be deemed a violation of the provisions of this chapter. There is, however, excepted from the provisions of this chapter any conveyance transferring any land or interest in land to or from the State of Texas or any political subdivision thereof.

(Ord. No. 870, § 1, 4-9-59; Ord. No. 4069, § 1(Exh. A), 7-7-14)

Sec. 24-2. - Same—Applicability in extraterritorial jurisdiction.

- (a) This chapter, establishing rules and regulations governing plats and the subdivision of land, is hereby extended in its application to include all of the area within the extraterritorial jurisdiction of the city. The provisions of this chapter shall have the same force and effect within said area of extraterritorial jurisdiction as within the corporate limits of the city, except as provided in subsections (b) and (c) of this section.
- (b) No violation of any provision of this chapter outside the corporate limits of the city, but within such city's area of extraterritorial jurisdiction, shall constitute a misdemeanor under this chapter, nor shall any fine provided for in this chapter be applicable to a violation within such area of extraterritorial jurisdiction.
- (c) In the event any provision of this chapter is violated within the area of extraterritorial jurisdiction of the city, and outside its corporate limits, the city may institute any appropriate action or proceedings in the district court to enjoin the violation of this chapter.

(Ord. No. 1099, §§ 1—3, 4-20-64)

Sec. 24-3. - Definitions.

As used in this chapter, the terms set out in this section shall have the respective meanings ascribed to them. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices.

Commission. The planning and zoning commission of the city.

Streets and alleys: The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however otherwise designated.

- (1) *Major thoroughfares or arterial streets* are principal traffic arteries more or less continuous across the city which are intended to connect remote parts of the city and which are used primarily for fast or heavy volume traffic and shall include but not be limited to each street designated as a major street on the major street plan.
- (2) *Collector streets* are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
- (3) *Minor streets* are those which are used primarily for access to the abutting residential properties and which are intended to serve traffic within a limited residential district.
- (4) *Marginal access streets* are minor streets which are parallel to and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.
- (5) *Alleys* are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

Subdivider and/or developer: The terms "subdivider" and "developer" are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation, and/or officer, agent employee, servant, and trustee thereof, who does or participates in the doing of any act toward the subdivision of land or who does or participates in the doing of any act of building single family homes, multifamily homes commercial buildings, industrial buildings, and/or other type structures on platted or unplatted property within the intent scope and purview of this chapter. The singular shall include the plural, and the plural shall include the singular.

Subdivision: Except as hereinafter provided, a subdivision is the division of any lot, tract or parcel of land into two (2) or more parts, lots or sites, for the purpose, whether immediate or future, of sale or division of ownership. This definition also includes the resubdivision of land or lots which are a part of a previously recorded subdivision. Divisions of land for agricultural purposes, and where no building construction is involved, in parcels of five (5) acres or more shall not be included within this definition of a subdivision, unless any such subdivision of five (5) acres or more includes the planning or development of a new street or access easement. Provided, however, the commission may, in its discretion, issue a certificate that this chapter shall not apply to those owners (and the word subdivision shall not include such division of land) desiring to sell one or more portions of a tract of land now lying outside the city limits by a meters and bounds description if the larger tract of land (out of which the portion or portions to be sold) now fronts on a public road which has been dedicated for at least fifty (50) years from the date of ordinance number 870, and the portion or portions of such tract to be sold will continue to front on such dedicated public road, and further provided, any portion of said land so sold must contain at least one (1) acre of land (measured to the center of any abutting roads) and further provided the commission shall, before issuing any such certificate, see that any and all desirable restrictive covenants are placed in an instrument to be filed for record in the office of the county clerk of the appropriate county, such restrictive covenants to remain in full force and effect for at least twenty-five (25) years unless the written consent of the commission is obtained for an earlier release, such written consent of the commission to be in addition to, and not in lieu of, any provisions contained in said instrument relating to the release of such restrictive covenants.

(Ord. No. 870, § 2, 4-9-59; Ord. No. 1135, § 1, 12-21-64; Ord. No. 1205, § 1, 6-23-66; Ord. No. 1220, § 1, 10-17-66; Ord. No. 3972, § 1, 3-15-10)

State Law reference— See V.T.C.S. art. 970A.

Sec. 24-4. - Approval of plats.

- (a) The governing body of a municipality may delegate to one (1) or more officers or employees of the municipality or of a utility owned or operated by the municipality the ability to approve:
 - (1) Amending plats described by Section 212.016 Local Government Code;
 - (2) Minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or
 - (3) A replat under Section 212.0145 Local Government Code, that does not require the creation of any new street or the extension of municipal facilities.
- (b) The designated person or persons may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.
- (c) The person or persons shall not disapprove the plat and shall be required to refer any plat which the person or persons refuse to approve to the municipal authority responsible for approving plats within the time period specified in Section 12.009 Local Government Code.

(Ord. No. 2006-3897, § 1, 7-17-06)

Editor's note— Ord. No. 2006-3897, § 1, adopted July 17, 2006, amended § 24-4 to read as herein set out. Former § 24-4 pertained to a plat presubmission conference and was derived from Ordinance No. 870, § 3(A), adopted April 9, 1959.

Sec. 24-5. - Preliminary plat.

- (A) Following the presubmission conference all persons desiring to subdivide a tract of land within the area above described shall first prepare and submit to the commission, not less than four (4) days prior to any meeting at which such plat is to be considered, the following information which shall be certified by a state registered professional engineer or by a state licensed or registered land surveyor:
 - (1) Three (3) copies of a preliminary plat showing the general features of the proposed development. This preliminary plat shall be drawn on a scale of two hundred (200) feet to the inch or larger (one hundred (100) feet to the inch preferred) and shall show the following:
 - (a) The outline of the tract the plat is proposed to subdivide with principal dimensions
 - (b) The proposed plan of subdivision, showing streets, blocks, lots, alleys, easements, building lines, parks, etc., with principal dimensions. The preliminary plat shall cover all of the tract intended to be developed, at any time, even though it is intended by the developers or developer to file plats and install improvements for parts of said tract by sections or units.
 - (c) The location, width and name of existing streets and any blocks, lots, alleys, easements, building lines and water courses or other natural features in the area affected, with principal dimensions, and any other significant information on all sides for a distance of not less than two hundred (200) feet.
 - (d) The names of proposed streets. Such names shall conform to the names of existing streets of which they may be or become extensions, or otherwise shall not duplicate or conflict with the recognized name of any other street located in the area subject to these regulations.
 - (e) The location of existing sewers, water and gas mains and other public utilities, if any.
 - (f) Proposed general plan for storm water drainage sufficiently detailed to indicate the location of drainage ditches or structures and the direction of flow.

- (g) Any zoning district affecting the area being platted or any proposed changes in zoning for which application will be made.
 - (h) The name of the proposed subdivision, north point, direction of prevailing breeze, scale and date.
 - (i) The name of the owner or owners and the engineer or surveyor.
 - (j) Vicinity sketch or key map at a scale of not more than eight hundred (800) feet to the inch which shall show all existing subdivisions, streets and tracts of acreage in the area and the general drainage plan, ultimate designation of water and possible storm sewer connections by arrows.
 - (k) Typical cross section of proposed street improvements.
 - (l) Contours of not more than five (5) foot interval and profiles of proposed streets and alleys may be required by the commission.
- (2) In conjunction with this plat, the applicant shall submit two (2) completed copies of a form furnished by the commission giving statistics on the subdivision and an outline of the proposed street improvements, public utilities, etc.
- (B) On receipt of the preliminary plat and other information the commission shall render a decision thereon within twenty-one (21) days. Such decision may consist of approval, disapproval or conditional approval. Conditional approval shall be considered to be the approval of a plat or replat subject to conformity with prescribed conditions, but shall be deemed to be a disapproval of such plat or replat until such conditions are complied with. All objections made to the preliminary plat, or conditions imposed, shall be furnished to the subdivider in writing.
- (C) When a preliminary plat has been approved, the subdivider may thereafter file a final plat or plats of sections of the subdivision upon which approval of the preliminary plat has been obtained, and upon the filing of a final plat or plats covering a portion of such subdivision, the remainder of the preliminary plat shall be deemed as considered approved or conditionally approved as in subsection (B) above; provided, however, that such approval or conditional approval of the remainder of the preliminary plat shall be limited to a two (2) year period; provided further, however, that the commission may at its discretion extend such period of validity. When a preliminary plat has been approved and thereafter the subdivider fails to file a plat of the subdivision or a section thereof within a period of six (6) months, the approval of the preliminary plat shall be void except, however, the commission may, in its discretion, extend such period of validity.

(Ord. No. 870, § 3(B), 4-9-59; Ord. No. 898, 10-13-59)

Sec. 24-6. - Final plat.

- (A) After the foregoing procedure has been complied with, and a preliminary plat approved by the commission, the subdivider shall prepare and file with the commission the following information:
- (1) The original and three (3) copies of the final plat. This plat shall be drawn to a scale of one inch equals one hundred feet (1" = 100') or larger in ink on linen with all figures and letters legible and the whole proper for filing for record in the office of the county clerk with the following information given:
 - (a) The title or name by which the subdivision is to be identified, north point, the scale of the map, and the name of the state registered professional engineer or state licensed or registered land surveyor responsible.

- (b) A definite legal description and identification of the tract being subdivided; this description shall be sufficient for the requirements of title examination. The plat shall be a descriptive diagram drawn to scale, and shall show by reference that the subdivision is a particular portion or part of a previously filed plat or recognized grant or partition, which diagram and description shall show as being included in the subdivision, at least all of the smallest unit of the last filed subdivision, plat, or grant, out of which the instant subdivision is divided, or so much thereof as is owned by the subdivider.
- (c) The boundaries of the subdivided property, the location or designation of all streets, alleys, parks and other areas intended to be dedicated or deeded to the public use, with proper dimensions. The boundaries of the subdivision shall be indicated by a heavy line equivalent to a No. 5 Payzant pen and shall be tied by dimension to the established center line of all existing boundary streets.
- (d) The location of all adjacent streets and alleys, with their names, and the names of adjoining subdivisions with exact location and designation by number of lots and blocks.
- (e) All lot, block and street boundary lines, with blocks and lots numbered or lettered consecutively. Building lines and easements shall be shown and shall be defined by dimension. The actual width of all streets shall be shown, measured at right angles or radially, where curved. All principal lines shall have the bearing and any deviations from the norm shall be indicated.
- (f) Accurate dimensions, both linear and angular, of all items on the plat; the boundary survey on the site shall close within one in ten thousand (1:10,000). Linear dimensions shall be expressed in feet and decimals of a foot; angular dimensions may be shown by bearings. Curved boundaries shall be fully described and all essential information given; circular curves shall be defined by actual length of radius and not by degree of curve. Complete dimensional data shall be given on fractional lots.
- (g) The location and description of all lot and block corners and permanent survey reference monuments. Such corners and monuments shall be of three-quarter ($\frac{3}{4}$) inch iron pipe or five-eighths ($\frac{5}{8}$) inch iron rod and shall meet the following standards:
 - (i) Lot corners shall be twenty-four to thirty (24—30) inches long with the top set flush with the ground.
 - (ii) Block corners shall be twenty-four (24) to thirty (30) inches long with the top set flush with the ground and shall include the beginning and end of all curves within each block.
 - (iii) Reference points shall be twenty-four (24) to thirty (30) inches long placed one (1) foot below the surface of the finished ground elevation at suitable locations throughout the subdivision. There shall be at least as many reference points as there are blocks in the subdivision but not less than two (2), and the distance between successive monuments along any street or reference line shall not be greater than one thousand (1,000) feet. Reference points shall be other than and in addition to markers set for block or lot corners.

- (h) A certificate of ownership in fee of all land embraced in the subdivision, and of the authenticity of the plat and dedication, signed and acknowledged by all owners of any interest in said land. The acknowledgment shall be in the form required in the conveyance of real estate. Approval and acceptance of all lienholders shall be included.
- (i) A certificate by the responsible surveyor or engineer in charge, duly authenticated, that the plat is true and correct and in accordance with the determination of surveys actually made on the ground. If the surveyor or engineer who prepared the plat did not make the boundary survey, this fact shall be noted in the certificate.
- (j) In addition to other required certificates, the following forms shall be entered on the plat following the certificates of owner, engineer, etc., and preceding the certificate of the county clerk:

"(I) STATE OF TEXAS§

COUNTY OF SAN PATRICIO
 NUECES AND ARANSAS§

This plat of _____ Subdivision (Addition) has been approved by the Director of Development) of the City of Aransas Pass on this the _____ day of _____(month), _____(year)

 Director of Development Services"

- (k) If a subdivision is located in an area not served by a sanitary sewer system and septic tanks are to be used the following form shall be included on the plat:

"STATE OF TEXAS

COUNTY OF SAN PATRICIO,
 NUECES AND ARANSAS

Approved by the City Health Officer.

This the _____ day of _____, 19_____.

 City Health Officer"

- (l) The final plat submitted to the commission and to be filed for record with the county clerk shall not show construction features such as curblines or public utility lines or other structures not involved in the title covenant.
- (2) A copy of the final restrictive covenants to govern the nature of the use of the property in said subdivision shall be submitted if said subdivision is planned for the use of individual septic tanks in lieu of a sanitary sewer system and/or falls under the large tract division category as defined in section 24-13. Such restrictions shall provide that the one-half (frac;1;2;) acre minimum lot areas shall not be reduced unless and until sanitary sewer service is available to each lot; in the case of a large tract division such restrictions shall provide that these lot areas shall not be reduced until a satisfactory replat of such subdivision or portion thereof is approved by the commission. The commission may, in the public interest, require that these be filed simultaneously with the plat.

- (B) Upon the filing of said final plat previously signed by the city building inspector along with other information, the commission shall render a decision thereon within thirty (30) days of receipt thereof. Said decision may consist of approval, disapproval or conditional approval as defined in section 24-5(B). Reasons for disapproval or conditional approval shall be stated by the commission in writing. When a plat is conditionally approved the subdivider may subsequently refile the final plat meeting the objections or imposed conditions and the commission shall within five (5) days thereafter sign said final plat, provided it meets the objections or imposed conditions. If such plat is filed with the commission without the signature of the city building inspector and otherwise meets all requirements it shall be conditionally approved by the commission subject to such signature and the failure of the city building inspector to sign shall not run against the thirty (30) day limit as defined above.
- (C) On approval of the plat, said plat being otherwise fully and properly endorsed, the chairman and the secretary of the commission shall sign in the spaces provided which shall allow said plat to be filed with the county clerk of the county wherein the property is situated.
- (D) Approval of a final plat shall be valid for a period of six (6) months; provided, however, this period may be extended by the commission upon written request by the subdivider.

(Ord. No. 870, § 3(C), 4-9-59; Ord. No. 898, 10-13-59; Ord. No. 4115, § 1, 8-17-15)

Sec. 24-7. - Standards manual.

A Standards Manual is attached as Appendix A and a Standards Manual Details is attached as Appendix B to this chapter. The Standards Manual and Standard Manual Details are maintained and updated by the Director of Public Works. The updates will be based on sound engineering practices and current available technology.

(Ord. No. 870, § 4(A), 4-9-59; Ord. No. 4132, §§ 1, 2, 12-7-15)

Editor's note— The Standards Manual and Standards Manual Details are available in the office of the City Secretary.

Sec. 24-8. - Reserved.

Editor's note— Ord. No. 4132, §§ 1, 3, adopted December 7, 2015, repealed § 24-8 which pertained to design standards of alleys. See Code Comparative Table for complete derivations.

Sec. 24-9. - Design standards of easements.

- (1) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.
- (2) Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

(Ord. No. 870, § 4(C), 4-9-59)

Sec. 24-10. - Design standards of blocks.

- (1) The lengths, widths and shapes of blocks shall be determined with due regard to:
 - (a) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
 - (b) Zoning requirements as to lot sizes and dimensions.
 - (c) Needs for convenient access, circulation, control and safety of street traffic.
 - (d) Limitation and opportunities of topography.
- (2) Block lengths shall not exceed sixteen hundred (1,600) feet.

(Ord. No. 870, § 4(D), 4-9-59)

Sec. 24-11. - Design standards of lots.

- (1) The lot size, width, depth, shape and orientation, and the minimum building set back lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- (2) Lot dimensions shall be as follows:
 - (a) Residential lots where served by public sewer shall be not less than fifty (50) feet wide at the building line nor less than seven thousand (7,000) square feet in area.
 - (b) Residential lots where not served by public sewer shall be not less than fifty (50) feet wide at the building line nor have an area less than that prescribed for health and sanitation purposes under section 24-15(6)(b). Such lots shall be laid out keeping in mind the possibility of resubdivision at such time as sanitary sewer service might become available.
 - (c) Depth and width of properties reserved or laid out for church, club or other semipublic use or for business or industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
- (3) Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets. When such lots side upon a major thoroughfare or collector street, no driveway or garage entrance shall enter on said thoroughfare or collector street; a note to this effect shall be properly entered on the plat to be recorded.
- (4) The subdivision of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.
- (5) Double frontage, and reverse frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- (6) Side lot lines shall be substantially at right angles or radial to street lines.

(Ord. No. 870, § 4(E), 4-9-59)

Sec. 24-12. - Design standards of parks and playgrounds.

Due consideration shall be given to the dedication of a suitable site for parks and playgrounds. The actual provision of such area shall be governed by the following standards and regulations:

- (a) On a subdivision of less than ten (10) acres no park requirement shall be made.
- (b) On a subdivision of ten (10) acres or more but less than twenty (20) acres no park requirement shall be made unless at the time of the filing of the preliminary plat the city has developed, or coincidentally with the development of said subdivision will develop, a park within a distance of one-half ($\frac{1}{2}$) mile of the closest lot line of the most distant lot in the tract proposed to be subdivided, in which event the subdivider shall be required to deposit in the city's park development fund money equivalent to the raw land value of five (5) per cent of the area within the subdivision for the development of the closest park to the subdivision. For the purposes of this section "coincidentally" shall mean "at the same time."
- (c) On a subdivision of twenty (20) acres or more the subdivider shall be required to dedicate five (5) per cent of the total area of the subdivision for park purposes at a location to be designated by the commission and under the following provisions and conditions:
 - (1) The area of the park to be dedicated shall be measured and calculated to the center line of any street within the subdivision bounding said park.
 - (2) When a subdivision is to be developed in stages or by units so that the actual platting of the park area to be dedicated in connection with said subdivision will be deferred until the second or a later unit, the subdivider shall complete and deliver to the commission with the final plat of the first unit of said subdivision an agreement form furnished by the commission which shall provide for the future dedication of such park.
 - (3) The city shall bear its portion of the cost of curb and gutter and paving on any streets within the subdivision bounding the park being dedicated and shall also pay the costs of any utility extensions required to serve the park.
 - (4) The city shall improve the dedicated park area coincidentally with the development of the subdivision. For the purpose of this section "coincidentally" means that the city shall improve said park when the subdivider has completed all permanent improvements required of him by this chapter adjacent to the dedicated park area or upon acceptance of the subdivision by the city, whichever time is later. By the term "improve" as used in this portion of the chapter is meant such filling and grading as may be necessary for the practical use of said park together with the installation of an irrigation system, sodding and planting of basic trees and shrubs.
 - (5) In the event the city should not be able to provide the development as outlined above it shall have the option of causing the subdivider to improve the dedicated park area, as the word improve is defined in this portion of the chapter, under a contract between the city and the subdivider providing for repayment by the city to the subdivider for the cost of such improvements within the following eighteen (18) months from the date of completion thereof and at an interest rate on the unpaid balance as defined by reimbursements by the city; provided that such development shall be done by or under the supervision of the city manager and according to city plans.
 - (6) Should the city fail or for any reason refuse to develop the park, or to avail itself of the option of causing the subdivider to develop said park, or to reimburse the developer the contracted development of said park, then said park area shall revert to the subdivider, his heirs, successors and assigns.

- (d) The foregoing subsections (a), (b) and (c) shall not apply in the case of a replat of a plat, subdivision or addition that has previously met park requirements, or the redivision of existing single lots.

(Ord. No. 870, § 4(F), 4-9-59; Ord. No. 4069, § 1(Exh. A), 7-7-14)

Sec. 24-13. - Design standards of large tract division.

Where a parcel is divided into larger tracts than standard building lots, such parcels shall be so divided as to allow for the opening of major thoroughfares and the ultimate extension of adjacent minor streets. The commission may vary the other requirements of this chapter in such manner as the general welfare of such area may require to permit such large tracts. Where such division is on the basis of lots two and one-half (2.5) acres or larger, curbs, gutters and sidewalks are not required, provided a sixty (60) foot street right-of-way is provided. Deed restrictions shall be filed as provided in section 24-6(2).

(Ord. No. 870, § 4(G), 4-9-59)

Sec. 24-14. - Submitting plans and specifications for required improvements; approval; installation required.

- (1) When a preliminary plat of a subdivision has been approved by the commission the developer may submit to the city building inspector, or his duly authorized agent, plans and specifications for all improvements pertinent to said subdivision. The city building inspector shall within thirty (30) days of receipt of said plans and specifications approve same if they conform to the requirements of this chapter, or disapprove same giving his reasons therefor in writing to the subdivider. Thereafter when the subdivider has met the objections, if any, the city building inspector shall sign the plans and specifications and forthwith deliver same to the subdivider, his agent or his engineer. Any plans and specifications submitted in connection with a preliminary plat which may have been conditionally approved as provided in section 24-5(B), are subject to the final determination of the conditions of such approval.
- (2) Before beginning any construction of the improvements outlined in this section on proposed roadways or public utilities pertaining to any subdivision coming under the provisions of this chapter, three (3) complete sets of plans and specifications of such construction, in the form of plats, sketches, or other satisfactory written descriptions shall be filed with the city building inspector. These shall show such features as roadways, cross sections and longitudinal slope for drainage, full description of proposed pavement or street improvement, its grade and slope, dimensions and specifications concerning public utilities to be installed showing proposed position on the ground, specifications of materials and construction, and profile maps of all sanitary and storm sewers showing both ground surface and flow line, and any other pertinent information of similar nature.
- (3) Improvements shall be installed within all of the area of any subdivision or portion thereof given final approval and filed or to be filed for record.
- (4) All improvements shall be designed and constructed in conformity with the provisions of this chapter and no construction shall be commenced until this chapter is so complied with.

(Ord. No. 870, § 5(A), 4-9-59; Ord. No. 898, 10-13-59)

Sec. 24-15. - Minimum standards for improvements.

The following minimum standards for improvements shall be agreed to and complied with in each subdivision or addition before final approval of a plat by the commission.

- (1) *Roadway pavement.* All roadway pavement shall be in compliance with Section III—Streets and Roadways of the City's Standards Manual.
- (2) *Curb and Gutter.* All required cur and gutter shall be in compliance with Section III—Streets and Roadways of the City's Standards Manual.
- (3) *Sidewalk.* All sidewalks shall be in compliance with Section III—Streets and Roadways of the City's Standards Manual.
- (4) *Street marker.* Two (2) street markers shall be erected at all street intersections in such subdivisions, the street markers to conform to street markers currently in use in the city.
- (5) *Water lines.*
 - a. Where an approved public water supply is reasonably accessible or procurable, each lot within the subdivided area shall be provided with access to such water supply. Reasonable access is within one mile of the public water line. Construction of the public water lines must be in compliance with Section IV—Water and Sewer of the City's Standards Manual.
 - b. In areas where a public water supply is not available, the subdivider shall construct wells in such a manner that an adequate supply of potable water shall be available to every lot in the subdivision. Such water supply system shall be constructed under the supervision of the city health officer and shall comply with all regulations of the state board of health in regard to such systems.
- (6) *Sanitary sewers*
 - a. All subdivisions coming under the provisions of this chapter and reasonably accessible to a public sanitary sewer shall provide each lot within said subdivision with access to such sanitary sewer. Construction of the public sanitary sewer lines must be in compliance with Section IV—Water and Sewer of the City's Standards Manual.
 - b. When any subdivision is planned that is not reasonably accessible to a public sanitary sewer it shall provide either for the use of septic tanks or an individual sewage treatment plant as follows:
 - (i) *Septic tanks:* In all subdivisions planned for septic tank use the minimum lot area shall be ten thousand (10,000) square feet per single-family dwelling. Septic tanks shall be installed on each lot concurrent with any development thereon and the design of such system and the method of installation shall conform in all respects to the requirements of the city health officer. The city health officer shall have the authority to vary the lot area requirement where satisfactory evidence is presented indicating that soil conditions are such as to warrant a modification.
 - (ii) *Individual sewage treatment plant:* In all subdivisions planned to be serviced by an individual sewage treatment plant lots may be of standard area and sewers shall be installed to serve each lot. The plant providing such sewage disposal facilities shall be constructed in accordance with the regulations and requirements of the state board of health and with the approval and under the supervision of the city health officer and the city building inspector.

- (7) In order to properly protect the health, safety and general welfare of the citizens of the city, all taps, meter services and meter sets on existing public utility waterlines of the city must be made and installed under the supervision and direction of the superintendent of utilities.
- (8) Where it shall be determined by the superintendent of utilities that larger or deeper mains or lines are required in order to provide for the future extension of the sewer or water utility system beyond the limits of the subdivision in question, the city shall assume the responsibility for any additional cost involved. In the event city funds are not currently available to pay for such larger or deeper mains or lines as may be required, arrangements shall be made for the developer to install these improvements and be reimbursed by the city.
- (9) Whenever a final plat of a subdivision within the city limits is approved, for which no city-owned water or sewer facility is available at a boundary of such subdivision, the city shall provide such extension, or contract for the extension thereof, upon written request therefor by the subdivider, as follows:
 - a. The city shall secure any necessary easement right-of-way therefor.
 - b. The subdivider shall install, or have installed, or contract with the city for the installation thereof by city forces, such facility or facilities from the most practicable existing source satisfactory to the city to the boundary of such subdivision in accordance with standard city requirements for comparable lines and extensions, and in conformity with the master plan for the expansion of such utility, and subject to the approval of the specifications, supervisions and costs thereof by the city manager.
 - c. The city shall reimburse the subdivider for such extension installation upon the completion and connection of fifty (50) per cent of the residences or structures provided for in such final plat; provided, however, that such reimbursement per facility shall never exceed the cost for ten (10) linear feet of extension for each lot in said final plat.

(Ord. No. 870, § 5(B), 4-9-59; Ord. No. 898, 10-13-59; Ord. No. 3604, § 1, 5-6-96; Ord. No. 4069, § 1(Exh. A), 7-7-14; Ord. No. 4132, § 4, 12-7-15)

Sec. 24-16. - Filing final plans of utilities and improvements.

Upon the completion of construction of any such utility or improvement, one (1) set of reproducible tracings of complete final plans, dated, signed and certified by the engineer in charge shall be filed with the city manager, showing all features as actually installed, including materials, size, location, depth or elevation, numbers, ends of lines, connections, wyes, valves, storm sewer drains, inlets and any other pertinent items. The utility department of the city shall make no connections to such utilities until the foregoing has been complied with.

(Ord. No. 870, § 5(C), 4-9-59)

Sec. 24-17. - Exceptions—Off-site improvements.

Where any street forms any part of the boundary of a subdivision and some part of the width of said street has been dedicated or committed to dedication and improved or committed to improvement then the subdivider shall be required to dedicate and/or improve the balance of the width of any such street, but otherwise no improvements shall be required as a prerequisite to the approval of the plat for any existing dedicated street forming a boundary of a subdivision.

(Ord. No. 870, § 6(A), 4-9-59)

Sec. 24-18. - Same—Gas utilities.

The installation and dedication of gas distribution mains within the subdivision shall not be required.

(Ord. No. 870, § 6(B), 4-9-59)

Sec. 24-19. - Same—Platted lots.

- (1) When any lot and a portion of a lot, or portions of lots, aggregating a larger tract in width and/or size than the average lot in the block in which same is situated are conveyed, as a single unit for a single use purpose, from a previously legally platted subdivision, no replat thereof shall be required.
- (2) This exception shall not apply to any extension across an easement or public way, nor permit changing the facing of the original lots.
- (3) This exception is not to be construed as a waiver of any requirement of the zoning ordinance, as amended, or other applicable ordinance, or recorded restriction, and for such interpretations said integrated tract shall thereafter be considered as a single lot.

(Ord. No. 870, § 6(C), 4-9-59)

Sec. 24-20. - Reserved.

Editor's note— Ord. No. 4069, § 1(Exh. A), adopted July 7, 2014, repealed § 24-20, which pertained to issuance of city permits for unplatted property in developed areas and derived from Ordinance No. 870, § 6(D), adopted April 9, 1959.

Sec. 24-21. - Variances—Hardship.

Where the commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the zoning ordinance or these regulations. Such variances and modifications as may be granted under this section shall be by at least a three-fourths ($\frac{3}{4}$) majority of the commission present.

(Ord. No. 870, § 7(A), 4-9-59)

Sec. 24-22. - Same—Conditions.

In granting variances and modifications, the commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(Ord. No. 870, § 7(B), 4-9-59)

Sec. 24-23. - Disapproval restricted.

No plat shall be disapproved nor the processing thereof delayed for noncompliance with any requirement or condition not set forth in this chapter, or otherwise required by law.

(Ord. No. 870, § 8, 4-9-59)

Sec. 24-24. - Appeals.

Any subdivider contesting any disapproval and/or the interpretation and/or application of any rule, standard, regulation, determination, requirement or necessity set forth in this chapter directly or by delegation of authority shall have the right, after filing a written request with the secretary of the commission, to have a hearing thereon before the commission within twenty-one (21) days after the date of filing of such request. Any subdivider not satisfied with the ruling of the commission shall have the right to appeal such rulings or decisions to the city council giving written notice to the city secretary within fifteen (15) days after the final hearing before the commission.

(Ord. No. 870, § 12, 4-9-59)

Sec. 24-25. - Penalties.

Violation of any provision of this chapter by any subdivider shall constitute a misdemeanor, except as provided in section 24-2, and upon conviction of such violation in the municipal court a fine as provided in section 1-5 shall be imposed, and each day that such violation continues shall be a separate offense. In case a corporation is the violator of any provision of this chapter, each officer, agent or employer in any wise responsible for such violation thereof shall be individually and severally liable for the penalties herein prescribed; provided however, the penal provision and application of this chapter shall not apply to a duly qualified county clerk or deputy county clerk acting in their official capacity, or in any wise be construed to conflict with Article 974A, § 7, Revised Civil Statutes of the State of Texas.

(Ord. No. 870, § 10, 4-9-59)

Sec. 24-26. - Penal conviction no bar to other legal action.

No conviction or convictions under the penal provisions of this chapter, or Article 974A, § 7, Revised Civil Statutes of Texas, shall ever be considered as any bar to any injunctive or other legal remedy, relief, right or power existing in the city to enforce the application and provisions of the chapter by virtue of the constitution and laws of the state and the charter of the city.

(Ord. No. 870, § 11, 4-9-59)

Sec. 24-27. - Development services fees.

The following fees shall be applied to all applications submitted the city for review. No submittal shall be accepted without a completed application and applicable fees. The fees noted below are nonrefundable.

(a) Platting Fees:

Minor/Amending Plat.....	\$350.00
Non-Public Notice Plat.....	\$350.00 + \$5.00/lot
Public Notice Plat.....	\$500.00 + \$5.00/lot
Plat Time Extension Request.....	\$60.00
Hardship Variance Request.....	\$160.00

Plat Appeal Fee.....\$60.00

(b) Rezoning Fees

0.00 ≤ 4.99 acres.....\$800.00

5.00 ≤ 9.99 acres.....\$1,000.00

10.00 acres or more.....\$1,000.00 + \$50.00/acre over 10

Planned Development Fees (in addition to rezoning fees above)

5.00 acres or more.....\$500.00

Conditional Use Permits (in addition to rezoning fees above)\$200.00

(Ord. No. 4127, § 1, 10-19-15)

Secs. 24-28—24-50. - Reserved.

ARTICLE II. - ECONOMICALLY DISTRESSED AREA PROGRAM^(u)

Footnotes:

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Editor's note—Ord. No. 3949, adopted Dec. 1, 2008, repealed the former Art. II, Div. 1, §§ 24-51—24-58, Div. 2, §§ 24-61—24-67, Div. 3, §§ 24-71—24-76, Div. 4, §§ 24-81—24-86 and enacted a new Art. II as set out herein. The former Art. II pertained to economically distressed area program and derived from Ord. No. 3583, 8-21-95.

Editor's note—The following forms, applicable to the economically distressed area program, are on file and available for inspection in the office of the city secretary: Water Service Agreement Wastewater Service Agreement Subdivision Construction Agreement Irrevocable Letter of Credit

DIVISION 1. - GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 24-51. - Authority and scope of rules.

These rules are adopted by the City of Aransas Pass, San Patricio, Aransas and Nueces Counties, Texas, under the authority of V.T.C.A. Local Government Code, ch. 212 and Water Code, § 16.350. Notwithstanding any provision to the contrary, these rules apply only to a subdivision which creates two (2) or more lots of five (5) acres or less intended for residential purposes. Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and in all deeds and contracts for deeds.

(Ord. No. 3949, (1.1), 12-1-08)

Sec. 24-52. - Purpose.

It is the purpose of these rules to promote the public health of the city's residents, to ensure that adequate water and wastewater facilities are provided in subdivisions within the corporate limits and extraterritorial jurisdiction of the city, and to establish the minimum standards for water and wastewater facilities.

(Ord. No. 3949, (1.2), 12-1-08)

Sec. 24-53. - Effective date.

These rules become effective on the first day of December, 2008.

(Ord. No. 3949, (1.3), 12-1-08)

Sec. 24-54. - Plat required.

- (a) The owner of a tract of land located within the corporate limits of the city or within the city's extraterritorial jurisdiction who divides the tract in any manner that creates two (2) or more lots of five (5) acres or less intended for residential purposes must have a plat of the subdivision prepared. Lots of five (5) acres or less are presumed to be for residential purposes unless the land is restricted to nonresidential uses on the final plat and all deeds and contracts for deeds.
- (b) No subdivided land shall be sold or conveyed until the subdivider:
 - (1) Has received approval of a final plat of the tract; and
 - (2) Has filed and recorded with the county clerk of the county in which the tract is located a legally approved plat.
- (c) A division of a tract is defined as including a metes and bounds description, or any description of less than a whole parcel, in a deed of conveyance or in a contract for a deed, using a contract of sale or other executory contract, lease/purchase agreement, or using any other method to convey property.

(Ord. No. 3949, (1.5), 12-1-08)

Sec. 24-55. - Supersession.

These rules supersede any conflicting regulations of the city.

(Ord. No. 3949, (1.6), 12-1-08)

Sec. 24-56. - Severability.

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

(Ord. No. 3949, (1.7), 12-1-08)

Sec. 24-57. - Definitions.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise.

City. The City of Aransas Pass, San Patricio, Aransas and Nueces Counties Texas. Any reference to an act of the city shall be deemed to include acts of the city council, board of aldermen, or other such elected governing body of the city.

Commission. The Texas Commission on Environmental Quality and any of its predecessor or successor entities.

County. San Patricio Aransas and Nueces, Counties, Texas.

Drinking water. All water distributed by any agency or individual, public or private, for the purpose of human consumption, use in the preparation of foods or beverages, cleaning any utensil or article used in the course of preparation or consumption of food or beverages for human beings, human bathing, or clothes washing.

Engineer. A person licensed and authorized to practice engineering in the state under the Texas Engineering Practice Act.

Final plat. A map or drawing and any accompanying material of a proposed subdivision prepared in a manner suitable for recording in the county records and prepared as described in these regulations.

Lot. An undivided tract or parcel of land.

Non-public water system. Any water system supplying water for domestic purposes which is not a public water system.

OSSF. On-site sewage facilities as that term is defined in rules and/or regulations adopted by the commission, including, but not limited to, 30 TAC chapter 285.

Platted. Recorded with the county in an official plat record.

Public water system. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, which includes all uses described under the definition for drinking water. Such a system must have at least fifteen (15) service connections or serve at least twenty-five (25) individuals at least sixty (60) days out of the year. This term includes any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Two (2) or more systems with each having a potential to serve less than fifteen (15) connections or less than twenty-five (25) individuals but owned by the same person, firm, or corporation and located on adjacent land will be considered a public water system when the total potential service connections in the combined systems are fifteen (15) or greater or if the total number of individuals served by the combined systems total twenty-five (25) or more at least sixty (60) days out of the year. Without excluding other meanings of the terms "individual" or "served," an individual shall be deemed to be served by a water system if he lives in, uses as his place of employment, or works in a place to which drinking water is supplied from the system.

Purchaser. Shall include purchasers under executory contracts for conveyance of real property.

Retail public utility. Any entity meeting the definition of a retail public utility as defined in V.T.C.A. Water Code, § 13.002.

Sanitarian. A person registered as a professional sanitarian by the state department of health under the authority of Texas Civil Statutes, article 4477-3.

Sewerage facilities. The devices and systems which transport domestic wastewater from residential property, treat the wastewater, and dispose of the treated water in accordance with the minimum state standards contained or referenced in these rules.

Subdivider. Any owner of land or authorized agent thereof proposing to subdivide or dividing land so as to constitute a subdivision.

Subdivision. Any tract of land divided into two (2) or more parts that results in the creation of two (2) or more lots of five (5) acres or less intended for residential purposes. A subdivision includes re-subdivision (replat) of land which was previously divided.

TAC. Texas Administrative Code, as compiled by the Texas Secretary of State.

Water facilities. Any devices and systems which are used in the supply, collection, development, protection, storage, transmission, treatment, and/or retail distribution of water for safe human use and consumption.

(Ord. No. 3949, (1.8), 12-1-08)

Secs. 24-58—24-60. - Reserved.

DIVISION 2. - MINIMUM STANDARDS

Sec. 24-61. - Scope of standards.

The establishment of a residential development with two (2) or more lots of five (5) acres or less where the water supply and sewer services do not meet the minimum standards of this division is prohibited. A subdivision with lots of five (5) acres or less is presumed to be a residential development unless the land is restricted to nonresidential use on the final plat and all deeds and contracts for deeds.

(Ord. No. 3949, (2.1), 12-1-08)

Sec. 24-62. - Water facilities development.

(a) *Public water systems.*

- (1) Subdividers who propose to supply drinking water by connecting to an existing public water system must provide a written agreement with the retail public utility the form for which may be obtained from the city secretary. The agreement must provide that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years. The agreement must reflect that the subdivider has paid the cost of water meters and other necessary connection equipment, membership fees, water rights acquisition costs, or other fees associated with connection to the public water system so that service is immediately available to each lot.

- (2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a certificate of convenience and necessity (CCN) from the commission. The public water system, the water quality and system design, construction and operation shall meet the minimum criteria set forth in 30 TAC, §§ 290.38-290.51 and §§ 290.101-290.120. If groundwater is to be the source of the water supply, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for new public water supply systems and certifies the long term thirty-years' quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply, the subdivider shall provide evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.
- (b) *Non-public water systems.* Where individual wells or other non-public water systems are proposed for the supply of drinking water to residential establishments, the subdivider shall have prepared and provide a copy of a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for individual water supply wells on individual lots and certifies the long term thirty-years' quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The water quality of the water produced from the test well must meet the standards of water quality required for community water systems as set forth in 30 TAC, §§ 290.104, 290.106, 290.108 and 290.109, either:
 - (1) Without any treatment to the water; or
 - (2) With treatment by an identified and commercially available water treatment system.
- (c) *Transportation of potable water.* The conveyance of potable water by transport truck or other mobile device to supply the domestic needs of the subdivision is not an acceptable method, except on an emergency basis. Absence of a water system meeting the standards of these rules due to the negligence of the subdivider does not constitute an emergency.

(Ord. No. 3949, (2.2), 12-1-08)

Sec. 24-63. - Wastewater disposal.

- (a) *Organized sewerage facilities.*
 - (1) Subdividers who propose the development of an organized wastewater collection and treatment system must obtain a permit to dispose of wastes from the commission in accordance with 30 TAC chapter 305 and obtain approval of engineering planning materials for such systems under 30 TAC chapter 317 from the commission.
 - (2) Subdividers who propose to dispose of wastewater by connecting to an existing permitted facility must provide a written agreement in substantially the form of which may be obtained from the city secretary with the retail public utility. The agreement must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years. The agreement must reflect that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is immediately available to each lot. Engineering plans for the proposed wastewater collection lines must comply with 30 TAC chapter 317.

(b) *On-site sewerage facilities.*

- (1) On-site facilities which serve single family or multi-family residential dwellings with anticipated wastewater generations of no greater than five thousand (5,000) gallons per day must be designed by a registered professional engineer or registered professional sanitarian, permitted by the authorized agent of the commission, and in all respects comply with 30 TAC chapter 285.
- (2) Proposals for on-site sewerage facilities for the on-site disposal of sewage in the amount of five thousand (5,000) gallons per day or greater must comply with 30 TAC chapter 317.
- (3) The commission or its authorized agent shall review proposals for on-site sewage disposal systems and make inspections of such systems as necessary to assure that the system is in compliance with the V.T.C.A. Health and Safety Code, ch. 366 and rules in 30 TAC chapter 285, and in particular §§ 285.4, 285.5 and 285.30—285.39. In addition to the unsatisfactory on-site disposal systems listed in 30 TAC, § 285.3(i), pit privies and portable toilets are not acceptable waste disposal systems for lots platted under these rules.

(Ord. No. 3949, (2.3), 12-1-08)

Sec. 24-64. - Greywater systems for reuse of treated wastewater.

- (a) *Organized or municipal sewerage systems.* Any proposal for sewage collection, treatment and disposal which includes greywater reuse shall meet minimum criteria of 30 TAC chapter 210 and chapter 285, subchapter H promulgated and administered by the commission.
- (b) *On-site sewerage facilities.* Any proposal for on-site sewage disposal which includes provisions for greywater use shall meet the minimum criteria of 30 TAC ch. 285 contained within the "Construction Standards for On-Site Sewerage Facilities" promulgated by the commission.

(Ord. No. 3949, (2.4), 12-1-08)

Sec. 24-65. - Sludge disposal.

The disposal of sludge from water treatment and sewerage facilities shall meet the criteria of 30 TAC ch. 312 and ch. 317.

(Ord. No. 3949, (2.5), 12-1-08)

Sec. 24-66. - Setbacks.

In areas that lack a nationally recognized fire code as listed in V.T.C.A. Local Government Code, § 233.062(c) and lack water lines sized for fire protection, setbacks from roads and right-of-ways shall be a minimum of ten (10) feet, setbacks from adjacent property lines shall be a minimum of five (5) feet, and shall not conflict with separation or setback distances required by rules governing public utilities, on-site sewerage facilities, or drinking water supplies. Setback lines required elsewhere in the orders or rules of the city shall control to the extent greater setbacks are therein required.

(Ord. No. 3949, (2.6), 12-1-08)

Sec. 24-67. - Number of dwellings per lot.

No more than one (1) single-family detached dwelling shall be located on each subdivision lot. A notation of this restriction shall be placed on the face of the final plat. This restriction shall be placed in all deeds and contracts for deeds for real estate sold within the subdivision. Where otherwise authorized, proposals which include multi-family residential structures shall include adequate, detailed planning materials required by the city for determination of proper water and wastewater utility type and design.

(Ord. No. 3949, (2.7), 12-1-08)

Secs. 24-68—24-70. - Reserved.

DIVISION 3. - PLAT APPROVAL

Sec. 24-71. - Applications for plat approval.

- (a) *Owner representation.* An application for approval of a plat shall be filed by the record owner of the property to be subdivided or the duly authorized agent of the record owner.
- (b) *Standards.* Every plat creating two (2) or more lots of five (5) acres or less for residential use shall comply with the standards of division 2 and the requirements of division 3 of this article.

(Ord. No. 3949, (3.1), 12-1-08)

Sec. 24-72. - Final engineering report.

The final plat shall include on the plat or have attached to the plat an engineering report bearing the signed and dated seal of a professional engineer registered in the state. The engineering report shall discuss the availability and methodology of providing water facilities and wastewater treatment service to individual lots within the subdivision. A detailed cost estimate per lot acceptable to the city shall be provided for those unconstructed water supply and distribution facilities and for wastewater collection and treatment facilities which are necessary to serve each lot of the subdivision. The plan shall include a construction schedule for each significant element needed to provide adequate water or wastewater facilities. If financial guarantees are to be provided under section 24-74 of this article, the schedule shall include the start dates and completion dates.

(a) *Public water systems.*

- (1) Where water supplies are to be provided by an existing public water system, the subdivider shall furnish an executed contractual agreement in substantially the form hereto fore referred to between the subdivider and the retail public utility to the effect that the retail public utility has or will have the ability to supply the total flow anticipated from the ultimate development and occupancy of the proposed subdivision for a minimum of thirty (30) years and that the subdivider has provided for the payment of costs or fees for the connection of each individual lot to the public water system, including water meters, water acquisition fees, or other necessary expenses required by the retail public utility. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project, which may include the commission and the county health department in addition to the responsible departments of the city. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for a public water

supply systems and certifies the long term thirty-years' quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision.

- (2) Where there is no existing retail public utility to construct and maintain the proposed water facilities, the subdivider shall establish a retail public utility and obtain a certificate of convenience and necessity (CCN) from the commission and include evidence of the CCN issuance with the plat. Before final plat approval, plans and specifications for the proposed water facilities shall have been approved by all entities having jurisdiction over the proposed project. If groundwater is to be the source of the water supply, the final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for a public water supply systems and certifies the long term thirty-years' quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. If surface water is the source of supply then the final engineering report shall include evidence that sufficient water rights have been obtained and dedicated, either through acquisition or wholesale water supply agreement, that will provide a sufficient supply to serve the needs of the subdivision for a term of not less than thirty (30) years.
- (b) *Non-public water systems.* Where individual wells are proposed for the supply of drinking water to residences, the final engineering report shall include the quantitative and qualitative results of sampling the test wells in accordance with subsection 24-62(b) of this article. The results of such analyses shall be made available to the prospective property owners. If the water quality of the test well required pursuant to subsection 24-62(b) of this article does not meet the water quality standards as set forth in that section without treatment by an identified and commercially available water treatment system, then the final report must state the type of treatment system that will treat the water produced from the well to the specified water quality standards, the location of at least one (1) commercial establishment within the county at which the system is available for purchase, and the cost of such system, the cost of installation of the system, and the estimated monthly maintenance cost of the treatment system. The final engineering report shall include a groundwater availability study that complies with the requirements of 30 TAC §§ 230.1 through 230.11 for water availability for individual water supply wells on individual lots and certifies the long term thirty-years' quantity and quality of available groundwater supplies relative to the ultimate needs of the subdivision. The description of the required sanitary control easement shall be included.
- (c) *Organized sewerage facilities.*
 - (1) Where wastewater treatment is to be provided by an existing retail public utility, the subdivider shall furnish evidence of a contractual agreement in substantially the form hereto fore referred to herein between the subdivider and must provide that the retail public utility has or will have the ability to treat the total flow anticipated from the ultimate development and that the subdivider has paid the cost of all fees associated with connection to the wastewater collection and treatment system have been paid so that service is immediately available to each lot. Before final plat approval, an appropriate permit to dispose of wastes shall have been obtained from the commission and plans and specifications for the proposed wastewater collection and treatment facilities shall have been approved by all entities having jurisdiction over the proposed project.

(2) Where there is no existing retail public utility to construct and maintain the proposed sewerage facilities, the subdivider shall establish a retail public utility and obtain a CCN from the commission. Before final plat approval, a wastewater treatment permit authorizing the treatment of the wastewater for the ultimate build-out population of the subdivision shall have been obtained from the commission and plans and specifications for the proposed sewerage facilities shall have been approved by all entities having jurisdiction over the proposed project.

(d) *On-site sewerage facilities.* Where private on-site sewerage facilities are proposed, the final engineering report shall include planning materials required by 30 TAC, § 285.4(c), including the site evaluation described by 30 TAC, §285.30 and all other information required by applicable OSSF regulations.

(Ord. No. 3949, (3.2), 12-1-08)

Sec. 24-73. - Additional information.

The city may, at its option, require additional information necessary to determine the adequacy of proposed water and wastewater improvements as part of the plat approval process. Such information may include, but not be limited to:

- (1) Layout of proposed street and drainage work;
- (2) Legal description of the property;
- (3) Existing area features;
- (4) Topography;
- (5) Flood plains;
- (6) Description of existing easements;
- (7) Layout of other utilities;
- (8) Notation of deed restrictions;
- (9) Public use areas; or
- (10) Proposed area features.

(Ord. No. 3949, (3.3), 12-1-08)

Sec. 24-74. - Financial guarantees for improvements.

- (a) *Applicability.* If an adequate public or non-public water system or sewerage facility is not available from a retail public utility, or are not constructed by the subdivider, to serve lots intended for residential purposes of five (5) acres or less at the time final plat approval is sought, then the city shall require the owner of the subdivided tract to execute an agreement with the city in substantially form available from the city secretary, secured by a bond, irrevocable letter of credit, or other alternative financial guarantee such as a cash deposit which meet the requirements set forth below.
- (b) *Bonds.* A bond that is submitted in compliance with subsection (a) shall meet the following requirements.
 - (1) The bond or financial guarantee shall be payable to the mayor of the city, in his official capacity, or the mayor's successor in office.

- (2) The bond or financial guarantee shall be in an amount determined by the city to be adequate to ensure proper construction or installation of the public or non-public water facilities, and wastewater facilities to service the subdivision, including reasonable contingencies, but in no event shall the amount of the bond be less than the total amount needed to serve the subdivision as established by the engineer who certifies the plat.
 - (3) The bond shall be executed with sureties as may be approved by the city. The city shall establish criteria for acceptability of the surety companies issuing bonds that include but are not limited to:
 - a. Registration with the secretary of state and be authorized to do business in Texas;
 - b. Authorization to issue bonds in the amount required by the city; and
 - c. Rating of at least B from Best's Key Rating Guide; or if the surety company does not have any such rating due to the length of time it has been a surety company, the surety company must demonstrate eligibility to participate in the surety bond guarantee program of the Small Business Administration and must be an approved surety company listed in the current United States Department of Treasury Circular 570. Such bonds shall meet the criteria contained in the rules and regulations promulgated by the United States Department of Treasury.
 - (4) The bond shall be conditioned upon construction or installation of water and wastewater facilities meeting the criteria established by division 2 of this article and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the city.
- (c) *Letter of credit.* A letter of credit that is submitted in compliance with subsection (a) shall meet the following requirements.
- (1) Any letter of credit submitted as a financial guarantee for combined amounts greater than ten thousand dollars (\$10,000.00) and less than two hundred fifty thousand dollars (\$250,000.00) must be from financial institutions which meet the following qualifications.
 - a. *Bank qualifications:*
 1. Must be federally insured;
 2. Sheshunoff rating must be ten (10) or better and primary capital must be at least 6.0 per cent of total assets; and
 3. Total assets must be at least twenty-five million dollars (\$25,000,000.00).
 - b. *Savings and loan association qualifications:*
 1. Must be federally insured;
 2. Tangible capital must be at least 1.5 per cent of total assets and total assets must be greater than twenty-five million dollars (\$25,000,000.00) or tangible capital must be at least 3.0 per cent of total assets if total assets are less than twenty-five million dollars (\$25,000,000.00); and
 3. Sheshunoff rating must be 30 or better.
 - c. *Other financial institutions qualifications:*
 1. The letter of credit must be one hundred ten (110) per cent collateralized by an investment instrument that would meet the qualifications for a city investment; and

2. The investment instrument must be registered in the city's name and the city must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (2) Any letter of credit submitted as a financial guarantee for combined amounts greater than two hundred fifty thousand dollars (\$250,000.00) must be from financial institutions which meet the following qualifications.
- a. *Bank qualifications:*
 1. Must be federally insured;
 2. Sheshunoff rating must be thirty (30) or better and primary capital must be at least 7.0 per cent of total assets; and
 3. Total assets must be at least seventy-five million dollars (75,000,000.00).
 - b. *Savings and loan association qualifications:*
 1. Must be federally insured;
 2. Tangible capital must be at least 3.0 per cent of total assets and total assets must be greater than seventy-five million dollars (75,000,000.00), or tangible capital must be at least 5.0 per cent of total assets if total assets are less than seventy-five million dollars (75,000,000.00); and
 3. Sheshunoff rating must be thirty (30) or better.
 - c. *Other financial institutions qualifications:*
 1. The letter of credit must be one hundred ten (110) per cent collateralized by an investment instrument that would meet the qualifications for a city investment; and
 2. The investment instrument must be registered in the city's name and the city must receive safekeeping receipts for all collateral before the letter of credit is accepted.
- (3) The letter of credit shall list as sole beneficiary the mayor of the city, in his official capacity, or the mayor's successor in office, and must be approved by the city. The form of the letter of credit shall be modeled after the form available from the city secretary.
- (4) The letter of credit shall be conditioned upon installation or construction of water and wastewater facilities meeting the criteria established under division 2 of this article and upon construction of facilities within the time stated on the plat, or on the document attached to the plat for the subdivision, or within any extension of time granted by the city.
- (d) *Financial guarantee.* The city will determine the amount of the bond, letter of credit, or cash deposit required to ensure proper construction of adequate water and wastewater facilities in the subdivision.
- (e) *Alternative to city accepting a financial guarantee.* The city may approve a final plat under this section without receiving a financial guarantee in the name of the city if:
- (1) The property being subdivided lies wholly within the extra-territorial jurisdiction of a municipality; and
 - (2) The city has executed an interlocal agreement with the county that imposes the obligation on the county to:
 - a. Accept the bonds, letters of credit, or other financial guarantees, that meet the requirements of this section;
 - b. Execute the construction agreement with the subdivider; and

- c. Assume the obligations to enforce the terms of the financial guarantee under the conditions set forth therein and complete construction of the facilities identified in the construction agreement.

(Ord. No. 3949, (3.4), 12-1-08)

Sec. 24-75. - Review and approval of final plats.

- (a) *Scope of review.* The city will review a final plat to determine whether it meets the standards of division 2 and the requirements of division 3 of this article.
- (b) *Disapproval authority.* The city shall refuse to approve a plat if it does not meet the requirements prescribed by or under these rules.
- (c) *Prerequisites to approval.* Final plat approval shall not be granted unless the subdivider has accomplished the following:
 - (1) Dedicated the sites for the adequate water and sewerage facilities identified in the final plat to the appropriate retail public utility responsible for operation and maintenance of the facilities; and
 - (2) Provided evidence that the water facilities and sewerage facilities have been constructed and installed in accordance with the criteria established within these rules and the approvals from the commission of the plans and specifications for such construction, including any change orders filed with these agencies; or
 - (3) Obtained all necessary permits for the proposed water facilities and sewerage facilities (other than for OSSF permits on individual lots within the proposed subdivision) and has entered into a financial agreement with the city secured by a bond or other alternative financial guarantee such as a cash deposit or letter of credit for the provision of water and sewerage facilities with the bond or financial guarantee meeting the criteria established in division 3 of this article.

(Ord. No. 3949, (3.5), 12-1-08)

Sec. 24-76. - Time extensions for providing facilities.

- (a) *Reasonableness.* The city may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the required water and sewer service facilities must be fully operable if:
 - (1) Any financial guarantees provided with the final plat as originally submitted are effective for the time of the requested extension or new financial guarantees that comply with section 24-74 are submitted which will be effective for the period of the extension; and
 - (2) The city finds the extension is reasonable and not contrary to the public interest.
- (b) *Timeliness.* If the facilities are fully operable before the expiration of the extension period, the facilities are considered to have been made fully operable in a timely manner.
- (c) *Unreasonableness.* An extension is not reasonable if it would allow a residence in the subdivision to be inhabited without water or sewer services that meet the standards of division 2 of this article.

(Ord. No. 3949, (3.6), 12-1-08)

Sec. 24-77. - Criteria for subdivisions that occurred prior to September 1, 1989.

- (a) *Authority and scope.* This section shall apply only to tracts of land that were divided into two (2) or more parts to lay out a subdivision before September 1, 1989 and have not been platted or recorded.
- (b) *Purpose.* It is the purpose of this section to promote the public health of the city's residents, to ensure that adequate water and sewerage facilities are provided in subdivisions within the city and its extraterritorial jurisdiction, and to establish the minimum standards for pre-1989 subdivisions for which no plat has been filed or recorded in the records of the county.
- (c) *Required plat.* In the event that the owner of tract of land located within the city or its extraterritorial jurisdiction who subdivided the tract into two (2) or more parts to lay out a subdivision of the tract prior to September 1, 1989, including an addition, or to lay out suburban lots or building lots, and to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, was legally obligated to, but has failed to have a plat of the subdivision prepared, approved by the city, and filed with the county, the owner of a residential lot which was created by the subdivision may have a plat of the individual lot prepared and approved by the commissioners court as provided in this section in lieu of the filing of a plat of the subdivision.
- (d) *Special criteria.* The city may approve the plat of a residential lot which does not comply with the provisions of subsection [24-54(b)], sections 24-66, 24-67, section 24-72, and section 24-74 of this article as applied to an individual subdivided lot if such approval is in harmony with the general purpose and intent of this article so that the public health, safety, and welfare may be secured and substantial justice done.
 - (1) Owners of individual lots in a single unplatted subdivision may file a joint request for approval of their respective individual residential lots.
 - (2) An application for approval of the plat of an individual lot shall be made in writing. The application shall state specifically the division, section, or subsection with which the plat does not comply and from which a waiver is being requested. The application shall contain available information and documentation which supports the requested approval. The applicant shall also provide such additional documentation as the city may request to support the application, including:
 - a. A copy of a dated plat, sales contract, utility records, or other acceptable documentation that the subdivision occurred prior to September 1, 1989;
 - b. The name and address of the original subdivider or the subdivider's authorized agent, if known;
 - c. A survey and plat of the lot for which approval is requested, showing existing residences, roads, and utilities; and
 - d. A deed, an affidavit of ownership or other evidence of ownership of the lot for which approval is requested.
 - (3) Approval of plats of individual lots shall be granted subject to the limitations of state law, and based on written findings by the city that:
 - a. The lot for which approval is requested is within a tract that was subdivided prior to September 1, 1989, and is not owned by the original subdivider;
 - b. A plat was required for the subdivision, but has not been filed with the county by the subdivider legally obligated to file it;
 - c. An existing, currently occupied residential dwelling is located on the lot;

- d. Existing water and sewer services which comply with the minimum standards set forth in this article are available to the lot; and
 - e. The request is reasonable, compliance with specified sections of these rules is impractical, and a waiver is not contrary to the public health and safety.
- (e) *Final determination.* The city shall make the final decision on an application for a waiver. The applicant may withdraw a request for a waiver at any point in the process. If the requested waiver application is approved, the city shall issue a certificate stating that a plat of the residential lot has been reviewed and approved.

(Ord. No. 3949, (3.7), 12-1-08)

Secs. 24-78—24-80. - Reserved.

DIVISION 4. - ENFORCEMENT

Sec. 24-81. - Oversight.

The owner, by submitting a plat, acknowledges the authority of the city and state agencies to lawfully enter and inspect property for purposes of execution of their statutory duties. Such inspection will not release the owner from any obligation to comply with the requirements of these rules.

(Ord. No. 3949, (4.1), 12-1-08)

Sec. 24-82. - General enforcement authority.

The provisions of this article are enforceable pursuant to the specific provisions hereof related to enforcement and state law including V.T.C.A. Water Code, ch. 7 and V.T.C.A. Local Government Code, §§ 16.352, 16.353, 16.3535, 16.354, and 16.3545, and § 212.0175 and § 212.018

(Ord. No. 3949, (4.2), 12-1-08)