

Chapter 2 PLATS AND SUBDIVISIONS

11-2-1. General provisions.

- (A) *Title.* This Chapter 2 of Title XI of the Midland City Code shall be officially known, cited and referred to as the Subdivision Regulations of the City of Midland (hereinafter "these regulations").
- (B) *Policy.*
1. The subdivision or platting of land and the subsequent development of the land are subject to the control of the City pursuant to the comprehensive plan for the orderly, planned, efficient, and economical development of the City.
 2. Land to be subdivided or platted shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flooding, or other menace, and land shall not be developed until adequate public facilities and improvements exist or are committed and proper provision has been made for adequate drainage, water, sewerage, and street access.
 3. Proposed public improvements shall conform to and be properly related to the proposals shown in the comprehensive plan and the capital improvements programs of the City. These regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, the zoning code, the comprehensive plan and the capital improvements programs of the City.
- (C) *Purposes.* These regulations shall serve to guide the future growth and development of the City of Midland in accordance with the comprehensive plan, and to protect and provide for the public health, safety, and general welfare of the City. Its goal is to maintain the quality of life for all citizens of the City of Midland and to enhance the beauty and stability of our community by encouraging the wise use and management of all our natural resources. In the furtherance of this goal, we shall work together in a spirit of cooperation to provide a quality infrastructure and other facilities to serve the public, and to ensure the best possible and most land efficient design and layout of future developments.
- (D) *Authority.* In addition to its other responsibilities, the City planning and zoning commission of the City of Midland (hereinafter "commission") is vested with the authority to review, approve and disapprove and, except in the case of final plats, conditionally approve applications for the platting or subdivision of land, including preliminary plats, final plats, amended plats, and vacations of plats, except as specified otherwise by Sections 11-2-3(D)11 and 11-2-3(I)2 herein.
- (E) *Jurisdiction.*
1. These regulations apply to all subdivisions of land located within the corporate limits of the City and within the City's extraterritorial jurisdiction, as provided by law, except as expressly stated herein.
 2. The following types of land division do not require approval by the City of Midland; however, the exclusion of such activities from these regulations does not waive any jurisdiction the City now exercises or may exercise over such matters.
 - (a) The division of land into two or more parts for agricultural use, where all parts are five acres or larger and do not involve a new street or other portion of the tract intended for public use.
 - (b) The division of land into two or more parts for other than agricultural use provided:

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- (i) All parts are five acres or larger;
 - (ii) Development of the parcels does not require the dedication of any public improvements; and
 - (iii) Each parcel after the subdivision has adequate access from existing streets.

"Adequate access," for purposes of this Section 11-2-1(E)2, shall mean the parcels, at the time of the subdivision, can be accessed over paved public streets which have sufficient structural and width capacity to carry the estimated levels of motor vehicle traffic to and from the parcels being divided, together with the estimated levels of traffic to and from other parcels in the area which will be accessed over the same streets, based on the most intensive use allowed in the zoning districts in which the parcels are located, and as required for platted property by Sections 11-2-5(A)3(C) and 11-2-5(C).

- (c) The division of property through inheritance, the probate of an estate, or by a court of law.
 - (d) The division of property resulting from an acquisition by a governmental entity of a portion of an undivided tract for a public purpose.
3. No plat will be approved for any tract of land within city boundaries which has not been permanently zoned in accordance with the zoning code.
 4. A written request may be directed to the commission for information concerning whether a plat is required under these regulations, in accordance with V.T.C.A., Local Government Code § 212.0115, as amended.
 5. Except as provided above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the commission in accordance with these regulations.
 6. Except as provided above, and for separate parcels of land established prior to the effective date of this Chapter 2, Title XI of this Code, no land shall be sold or transferred until the property owner has obtained approval of a final plat from the director, the commission or the City Council (hereinafter "Council") as required by these regulations.
 7. The City shall withhold all public improvements and utilities, including the maintenance of streets and the provision of sewage facilities and water service, from all tracts, lots or additions, the subdivision of which requires approval by the City and for which such approval has not been obtained as specified herein.
 8. The building official shall not issue building or repair permits for any structure on a lot in a subdivision for which a plat has not been approved and recorded in the manner prescribed by this Chapter, except as provided otherwise in the site requirements of the building code, Section 4-1-4 of the Midland City Code.
 9. The Health and Senior Services Administrator shall not issue a septic permit for a new or expanded septic system within the City limits or within the City's extraterritorial jurisdiction for property for which a plat has not been approved and recorded in the manner prescribed by this Chapter. The Health and Senior Services Administrator shall obtain written confirmation from the City Manager that this section has been complied with before issuing a septic permit. A septic permit that is issued without the provisions of this section having been complied with shall be void at inception.
- (F) *Applicable law.* All applications for plat approval, including final plats, pending on the effective date of these regulations and which have not lapsed shall be reviewed under regulations in effect immediately preceding the date of adoption of these regulations.

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- (G) *Units of measure.* All units of measurement contained herein are expressed in SI (or metric system) units, followed by the U.S. customary (or English) system units in parentheses. The measurements generally will not be equivalent because of rounding of SI units. All subdivision plats, whether sketch, preliminary, or final stage plats, shall show all units of measure either in SI units or in U.S. customary system units until January 1, 2000. Where measurements are in other than SI units, wherever practical, it is encouraged that SI units of measure follow in parentheses. Effective January 1, 2000, only SI units of measure shall be used. Unless required otherwise by other applicable regulations, until January 1, 2000, the developer may elect as primary units of measurement for his subdivision plat and for all subdivision improvements either SI or U.S. customary units, regardless of which measurement unit contained herein or in other applicable codes or public improvements standards is the more restrictive, but must conform to the minimum requirements specified in one of the systems of measurement exclusively for each subdivision. A developer shall not mix measurement systems with respect to compliance with minimum requirements. Where required for federal or state government participation in public improvements, the City may require that the SI system of measurement be used for all units of measurement. Where an extension of an existing right-of-way or easement would be a lesser width than the existing, the plat shall dedicate a suitable transition from the greater to the lesser width.
- (H) *Interpretation, conflict, and separability.*
1. *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.
 2. *Conflict with other laws.* 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 any other provision of these regulations, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.
 3. *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 Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.
- (I) *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 City, 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 City, except as shall be expressly provided for in these regulations.
- (J) *Superseding regulations.* Upon the adoption of these regulations according to law, all subdivision regulations of the City of Midland previously in effect are hereby superseded, except as provided in Section 11-2-1(F).
- (K) *Amendments.* For the purpose of protecting the public health, safety and general welfare, the commission or Council may from time to time propose amendments to these regulations, which shall then be approved or disapproved by the Council at a public meeting after a public hearing. Notice of the public hearing on any proposed amendments to these regulations shall be published at least once in the official newspaper of the City not later than seven days prior to the date of the public hearing, and shall set forth the time, date and place of the public hearing.
- (L) *Variances.*

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1. *General.* Where the commission or Council finds that unreasonable hardships or 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 to these regulations so that substantial justice may be done and the public interest secured. A variance shall not be approved which would have the effect of nullifying the intent and purpose of these regulations.
 2. *Criteria for variances other than from development exactions.* The granting of any variance shall take into account the nature of the proposed use of the land involved and existing uses of land in the proposed subdivision, existing and proposed streets, drainage systems, and utilities, and the probable effect of such variance upon the public health, safety, convenience and welfare in the vicinity. The commission or Council shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:
 - (a) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property.
 - (b) Because of the particular physical surroundings, shape or topographical nature of the land, the conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are neither applicable generally to other property nor are created by the owner. Because of these unique circumstances, strict application of these regulations would result in a particular hardship to the owner, as distinguished from mere inconvenience, conflict with the owner's preference, or interference with ability to maximize profits.
 - (c) The variance will not in any manner vary the provisions of Title XI, Chapter 1 of the Midland City Code, as amended, or comprehensive plan, except that those documents may be amended in the manner prescribed by law.
 - (d) 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 Chapter.
 3. *Criteria for variances from development exactions.* Where the commission or Council finds that the imposition of any development exaction pursuant to these regulations exceeds reasonable benefit to the development or is so excessive as to constitute confiscation of the tract to be platted, it may approve variances to such requirements, so as to prevent such excess. In considering such request, the commission or Council also shall take into account the detriment to the public health, safety and welfare that would result from imposing the requirements.
 4. *Planned developments.* It is the intent of this Chapter that the subdivision of a planned development be processed in conjunction with zoning approval. If the preliminary plat for the subdivision is consistent with the site plan for the planned development zoning district approved by the Council, any variation in the standards or requirements otherwise made applicable to the plat by this Chapter, which is necessitated by said plan, may be approved without regard to the standards and procedures for variances required by this Section, provided that the commission or Council may impose such conditions as to assure that the purposes of this Chapter are met and require such covenants and restrictions as will assure conformity to and achievement of the plan.
 5. *Conditions.* In approving a variance from these regulations, the commission or Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements varied and the purposes described in Section 11-2-1(C).
 6. *Procedures.* An application for a variance shall be submitted in writing by the property owner at the time when the preliminary plat, or final plat where no preliminary plat is required, is filed for the consideration of the commission. The petition shall state fully the grounds for the variance and all of the facts relied upon by the applicant. The commission shall decide the variance request, subject to

appeal to the Council pursuant to Section 11-2-1(L), or to approval of the plat by the Council, where required.

(M) *Appeals.* Any subdivider contesting any disapproval, conditional approval and/or interpretation or application of any rule, standard, regulation, determination or requirement set forth in this Chapter directly or by delegation of authority shall have the right, after filing a written request with the commission, to have a hearing thereon before the commission within 21 days after the date of filing of such request. The subdivider may appeal an adverse decision of the commission to the Council by giving written notice to the director within 15 days after the final hearing before the commission.

(N) *Enforcement, violations and penalties.*

1. *Violations and penalties.* Any person who violates any of these regulations for lands within the corporate boundaries of the City shall be subject to a fine of not more than \$2,000.00 per day, pursuant to Title I, Chapter 3, of the Midland City Code.
2. *Civil enforcement.* Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, or to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to land within the corporate boundaries of the City or within the City's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

(Ord. No. 7333, § 1, 6-14-1994; Ord. No. 8619, § 1, 2-26-2008; Ord. No. 9022, § 1, 6-12-2012; Ord. No. 9327, § 1, 9-23-14)

11-2-2. Definitions.

(A) *Usage.*

1. For the purpose of this Chapter, certain numbers, abbreviations, terms, and words shall be used, interpreted and defined as set forth in this Section.
2. 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.
3. Unless the context clearly indicates otherwise, the phrases "these regulations" and "this Chapter" shall mean Chapter 2 of Title XI of the Midland City Code, the phrase "this Code" shall mean the Midland City Code, as amended, the phrase "building code" shall mean Title IV, Chapter 1 of the Midland City Code, as amended, and the phrase "zoning code" shall mean Title XI, Chapter 1 of the Midland City Code, as amended.
4. Unless the context clearly indicates otherwise, citation of specific section numbers in this Chapter are to sections of the Midland City Code, as amended.

(B) *Words and terms defined.*

1. *Abandonment.* Release of the interest in easements or right-of-way by all parties with rights to said easement or right-of-way.
2. *Alley.* A public or private way primarily designed to serve as a secondary means of access to the side or rear of those properties whose principal frontage is on some other street or on some other space intended in place of direct street frontage. "Alley" means public alley unless otherwise specified.
3. *Amended plat.* A revised plat correcting errors or making minor changes to the original recorded final plat.
4. *Amenity.* An improvement providing an aesthetic, recreational or other benefit.

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5. *Approach road.* An off-site access road required by these regulations as a minimum condition of development approval.
 6. *Base flood elevation.* The maximum water elevation of a flood having a one percent chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed and the City's storm drainage design manual criteria for a 100-year storm.
 7. *Block.* A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.
 8. *Bond.* Any form of a surety bond executed by a surety company authorized to do business in the State of Texas in an amount and form satisfactory to the City.
 9. *Capital improvements program.* An adopted schedule of future capital improvement projects together with cost estimates.
 10. *City.* The City of Midland, Texas.
 11. *City engineer.* The city official with responsibility to review and release plans for construction projects, or his designee.
 12. *Commission.* The city planning and zoning commission for the City of Midland.
 13. *Comprehensive plan.* A plan for development of the City prepared and adopted by the Council, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.
 14. *Contiguous.* Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.
 15. *Council.* The City Council of the City of Midland, Texas.
 16. *County.* Midland, Martin or Ector County, depending on whether a proposed subdivision or addition, or part thereof, is located in such county.
 17. *Dedication plat.* A plat prepared for the purpose of dedicating land or easements for rights-of-way for public use.
 18. *Detention basin.* A manmade or natural water collector facility designed to collect surface and subsurface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property, into natural or manmade outlets.
 19. *Developer or subdivider.* Any person, business, corporation, association or other legal entity who (1) having legal title to or sufficient proprietary or other interest in the land comprising the subdivision 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 addition, 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 addition or any interest, lot, parcel, site, unit or plat in a subdivision or addition, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with, any of the foregoing. The term "developer" includes the term "subdivider" and the term "property owner."
 20. *Development.* Any manmade change to improved or unimproved real estate, including but not limited to the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, paving, drainage or utilities; mining, excavation, landfill or land disturbance; and any use or extension of the use of land.
 21. *Development contract or agreement for public works construction (development agreement).* A contract entered into by the developer and the City by which the developer promises to complete the

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- required public improvements within the subdivision within a specified time period following final plat approval.
22. *Development exaction.* Any dedication of land or easements for, construction of, or contribution toward construction of a public improvement required as a condition of plat approval by the City under these regulations.
 23. *Director.* The director of engineering and development of the City of Midland.
 24. *Divided street.* A street having an island, median or other barrier separating moving lanes.
 25. *Drainage.* The removal of surface water or groundwater from land by drains, grading or other means.
 26. *Drainage system.* The system through which water flows from the land, including all watercourses, water bodies and wetlands.
 27. *Drainageway.* All land areas needed to allow passage of the base flood, including sufficient access above the base flood elevation along each side of and parallel to the natural or excavated channel.
 28. *Driveway.* An area improved for ingress or egress of vehicles, and allowing access from a street to a building or other structure or facility.
 29. *Easement.* The right of a person, government agency, or public utility company to use public or private land owned by another for specific purpose.
 30. *Extraterritorial jurisdiction (ETJ).* The unincorporated area that is contiguous to the corporate boundaries of the City as defined in V.T.C.A., Local Government Code ch. 42, as amended, except as set forth in such agreements that may be entered between the City and any other governmental entity whose ETJ would overlap the City's ETJ.
 31. *Filing of application for final plat.* Submission by the property owner of a plat which has received all preliminary approvals prescribed by these regulations, conforms to all conditions imposed pursuant to such preliminary approvals and which meets submittal requirements for a final plat as prescribed by this Chapter.
 32. *Final plat.* The map of a subdivision or addition to be recorded after approval by the commission and any accompanying material and additional requirements as described in this Chapter.
 33. *Fire lane.* A dedicated, privately maintained drive, constructed to city standards, providing an unobstructed means of access for fire department apparatus.
 34. *Floodplain.* Any land area susceptible to being inundated by water from the base flood.
 35. *Floodway.* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood as defined in Section 11-3-1 without cumulatively increasing the base flood elevation more than a designated height.
 36. *Frontage.* That side of a lot abutting a public or private street.
 37. *Global Positioning System (GPS).* A system which utilizes satellites to determine relative location of a point on the earth's surface with highly accurate reference coordinates.
 38. *Grade.* The degree of rise or descent of a sloping surface, such as a street, parkway or berm, usually expressed in percentage terms.
 39. *Island.* In street design, a raised area, usually curbed, placed to guide traffic and separate lanes, or used for landscaping, signing, or lighting.

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40. *Lake area.* Any natural or manmade stormwater lake area or playa in the City or within the jurisdiction of this Chapter, the perimeter of which may be or has been established and shown on maps maintained by the City engineer, and is substantially the estimated high-water level for the lake.
 41. *Loop street.* A street whose only connections to another street are at two points on that street; usually a collector or local street.
 42. *Lot or parcel.* A tract, plot or portion of a subdivision, addition or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or possession or for building or development.
 43. *Lot area.* The total horizontal area within the lot lines of a lot.
 44. *Lot line.* The line dividing one lot from another lot or from a street, alley, right-of-way, public place or common use area.
 45. *Lot of record.* A parcel of land which is designated as a separate and distinct lot or tract on a duly approved subdivision plat, which has been recorded in the office of the county clerk of the appropriate county.
 46. *Main.* In any system of continuous piping, the principal artery of the system to which branches may be connected.
 47. *Median.* That portion of a divided roadway separating lanes of traffic proceeding in opposite directions.
 48. *Minor plat.* A proposed plat with no more than four contiguous lots, with said lot or lots fronting on an existing street, and not requiring the creation of any new street or any public improvements.
 49. *Mutual access easement.* An officially approved, privately maintained drive, open to unrestricted and irrevocable access to two or more lots.
 50. *Open space.* Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.
 51. *Oversize main.* A water or wastewater main required to interconnect property being developed with the City's water or wastewater system, which is a larger size than a 20 centimeter (8 inches) water main or a 25 centimeter (10 inches) wastewater main.
 52. *Park.* An area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency, or other public body for recreational or conservational uses.
 53. *Parkway.* The area of a street within the dedicated right-of-way located between the boundary of the right-of-way and the street pavement, normally reserved for the placement of utilities, sidewalks and landscaping.
 54. *Performance bond and/or surety bond.* A financial guarantee to ensure that all improvements, facilities or work required by this Chapter will be completed in compliance with the ordinance, regulations and approved plans and specifications of a development.
 55. *Perimeter street.* Any existing or planned street which abuts the subdivision or addition to be platted.
 56. *Plat.* The plan or map for the subdivision or addition to be filed for record in the county where such subdivision or addition is located.
 57. *Platting.* The act of preparing for approval and processing, pursuant to this Chapter, the plan or map for the subdivision or addition to be filed for record in the county where such subdivision or addition is located.

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58. *Pre-application conference.* An initial meeting between developers and city representatives which affords developers the opportunity to present their proposals informally.
 59. *Preliminary plat.* The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision or addition to be submitted to the director for approval as specified herein.
 60. *Private street.* A vehicle accessway which provides access to one or more lots, in place of a public street, but not dedicated to the public use.
 61. *Property owner.* 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 comprising the subdivision or addition, or any representative or agent thereof, who has express written authority to act on behalf of such owner. The term includes developer.
 62. *Property owners' association.* A private, nonprofit corporation of owners and/or residents of a fixed area formed for the purpose of owning, operating and maintaining various common properties or facilities.
 63. *Pro rata.* A charge against a developer requesting to connect to existing water or sanitary sewer lines, said charge serving as reimbursement to the original installer of the line.
 64. *Public improvement.* Any drainageway, roadway, parkway, sidewalk, utility, pedestrian way, off-street parking area, lot improvement, open space, or other facility for which the City or other governmental entity will ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established or that affects the health, safety or welfare of the general public.
 65. *Public improvement plans.* The plans showing the specific location and design of public improvements to be installed in the proposed subdivision or addition in accordance with the requirements of the commission as a condition of the approval of the plat. These plans, as determined by the City engineer, may include, but are not limited to, grading plan, dimensional control plan, paving plan/profile, drainage area map, drainage plan/profile, water and sewer plan/profile, lift station plan, special details, hydrologic studies and other plans.
 66. *Remainder.* The residual land left after platting of a portion of a tract or the residual of a lot, a portion of which has been replatted. The residual of such partially replatted lot shall be considered an unplatted tract.
 67. *Registered surveyor.* A registered professional land surveyor as authorized by state statutes to certify land surveys in the State of Texas.
 68. *Replatting.* Any change in a map of an approved or recorded plat, except as permitted as an amended plat, that affects any street layout on the map or area reserved or dedicated thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions or additions. Replatting includes the combination of lots into a single lot for purposes of development.
 69. *Reserve strip.* A strip along a plat boundary, reserved with the purpose of preventing access to an element of the subdivision, usually a street, alley, easement, or other public facility.
 70. *Retaining wall.* A structure erected between lands of different elevation to protect structures and/or prevent the washing down or erosion of earth from the upper slope level.
 71. *Retention basin.* A pond, pool, or basin used for permanent storage of water runoff.
 72. *Right-of-way.* A parcel of land occupied or intended to be occupied by a street or alley, and, where appropriate, other facilities and utilities including sidewalks, railroad crossings, electrical,

communication, oil or gas, water or sanitary or storm sewer facilities, or for any other special use. The use of right-of-way shall also include parkways and medians outside of pavement. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

73. *Security*. The bond, letter of credit or cash escrow provided by the applicant to secure its promises in the improvement agreement.
74. *Sewer*. Any pipe conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants, receiving streams, or retention basins, either constructed or natural.
75. *Sight triangle*. A triangular-shaped portion of land established at intersecting streets, highways, alleys and driveways in which nothing may be erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, as required by the City Code.
76. *Site plan*. A plan of a specific parcel of land, prepared to scale, showing accurately all buildings, existing or proposed, in relation to the platted parcel of land, and containing proposed floor area and coverage area for each structure and all impervious surface areas, to be used in determining compliance with the requirements of this ordinance, along with other essential site elements such as parking facilities necessary to comply with the minimum requirements of the proposed use, locations of all buildings and structures, means of access, and areas to be landscaped, together with any other requirements of the zoning code or other valid ordinances of the City.
77. *Sketch plat*. A sketch preparatory to the preliminary plat or final plat, to enable the property owner to save time and expense in obtaining city staff review and comment as to the form of the plat and the objectives of these regulations.
78. *Street*. A public right-of-way used, or intended to be used, for passage or travel by motor vehicles and classified as follows:
 - (a) *Arterial street*, including such terms as "freeway" or "expressway," is a street of considerable continuity which is intended to function primarily as a main traffic artery for travel of high volumes of vehicles through and among large areas of the City, at speeds consistent with safety and efficiency of such travel and with minimum delay, including any street so designated on the major thoroughfare plan.
 - (b) *Collector street* is a street which carries traffic from minor streets to arterial streets, including the principal entrance streets of a residential development.
 - (c) *Local street* is a street used primarily for access to the abutting properties. A cul-de-sac or dead-end street is a local street with only one outlet.
 - (d) *Marginal access street* is a minor street which is parallel and adjacent to an arterial street and which provides access to abutting properties and protection from through traffic.
 - (e) *Commercial or industrial street* is a street intended primarily to serve traffic within an area of commercial or industrial development or proposed development.
79. *Street hierarchy*. The conceptual arrangement of streets based upon function. A hierarchical approach to street design classifies streets according to function from heavy-traffic roads down to streets whose function is residential access.
80. *Subdivision*. The division of any tract or parcel of land into two or more lots for the purpose, whether immediate or future, of offer, sale, or lease or for the purpose of development or transfer of

ownership. Subdivision includes the division or development of residentially and nonresidentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. Subdivision also includes resubdivision. Subdivision also refers to the land to be so divided, as the context may indicate, and includes the term "addition."

81. *Substandard street.* An existing street or highway that is not constructed to the ultimate standards for the type of roadway as designated in the major thoroughfare plan or does not meet other minimum specifications in the major thoroughfare plan or the City's minimum standards and specifications, or, if a state highway, does not meet the minimum standard specifications of the Texas Department of Transportation.
82. *Survey control monument, official city (city survey control monument).* A permanent monument, established by or accepted by the City engineer as an official city survey monument, and marking a point on the City of Midland Control Network (CMCN). A record of all such monuments is maintained in the office of the City engineer.
83. *Temporary improvement.* Improvements built and maintained by an owner during construction of the development of the subdivision or addition and prior to release of the performance bond or improvements security and required for the shortterm use of the property.

(Ord. No. 7333, § 1, 6-14-1994)

11-2-3. Platting procedures.

(A) General.

1. *General application requirements for all plats.* The following requirements shall be met in the submittal of an application for plat review or approval, whether sketch plat, preliminary plat, final plat, replat, amending plat or plat vacation, except as specified herein:
 - (a) Title block in the lower righthand corner of each plat which indicates:
 - (1) The proposed subdivision name.
 - (2) The owner's name, address and phone number.
 - (3) The name and address of the individual or firm preparing the plat.
 - (4) The name of a contact person with address and phone number, except for final plats.
 - (b) A locator map.
 - (c) North direction clearly indicated to the top or right of the drawing, theta angle for the permanent survey monument on the plat boundary nearest the City survey control monument (not required on sketch plat), graphic scale, and last revision date.
 - (d) Names of adjacent subdivisions or additions or the names of record owners of adjoining parcels of unplatted land.
2. *Fees, application forms and procedures.* The Council shall establish a schedule of fees as it determines appropriate to recoup costs related to the administration of this Chapter. The director shall establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a sketch plat, preliminary plat, replat, vacation of plat or final plat.

- #### **(B) Official submission date.** For the purpose of this Chapter, the date on which an application for approval of a final plat that contains all required elements mandated by V.T.C.A., Local Government Code § 212.004(b), and the elements required by Section 11-2-3(A) and (H) is first filed shall constitute the official submission

date for the plat, after which the statutory period required for approval or disapproval of the plat shall commence to run.

(C) *Sketch plat.*

1. *Purpose.* The purpose of the sketch plat is to allow the City staff to review and comment on a general plan for the development of property, including the layout of streets, lots, open space, sites for public facilities and utilities.
2. *Application procedure and requirements.*
 - (a) *Pre-application conference.* Before preparing the sketch plat, the applicant may schedule an appointment and meet with the director or his designee to discuss the procedures for approval of the plat and the requirements or recommendations as to general layout of streets and/or reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services.
 - (b) *General application requirements.* At least 12 days prior to submitting a preliminary plat, the owner shall file an application and a sketch plat with the planning division. The sketch plat shall be drawn to a scale no smaller than 1:2,500 (1" = 200') and shall contain the following information in addition to those items described in Section 11-2-3(A):
 - (1) The location, width, and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights-of-way, and topography with existing drainage channels, and other important features. The location map should include an area not less than 1.5 kilometers (1.0 mile) beyond the plat boundary or such greater area as necessary to show the relationship of the proposed subdivision to existing community facilities which serve or influence it. The subdivision name and location, main traffic arteries, elementary and secondary schools and parks and playgrounds should be included.
 - (2) Tract lines and record owners of all unplatted land immediately adjoining the proposed subdivision within a distance of 100 meters (330 feet) thereof.
 - (3) The layout, names and widths of proposed collector streets and intersections, and a general configuration and widths of proposed streets, alleys and easements. Off-site rights-of-way and easements within 100 meters (330 feet) of the plat boundary shall be included if expected to have an effect on the proposed plat.
 - (4) A general arrangement of land uses, including but not limited to park and school sites; municipal facilities; private open space; floodplains, drainageways, and drainage basins within 100 meters (330 feet) of the plat boundary; phasing plan; and proposed nonresidential and residential uses and densities.
 - (5) The location of any proposed screening walls and/or other forms of screening.
 - (6) The layout and number of one-family and two-family lots, typical lot width and depth, net area of each apartment or business area, playgrounds, park areas and public areas.
 - (7) Existing contours of the tract in intervals of 0.60 meter (2 feet) or less, referred to National Geodetic Vertical Datum of 1929. Contour information may be shown as supplied by the City engineer, if available, or shall be furnished by a registered surveyor.
 - (8) Existing sewers, water mains, culverts, or other underground structures within the tract and immediately adjacent thereto, with pipe sizes and locations indicated.

(D) *Preliminary plat.*

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1. *Purpose.* The purpose of the preliminary plat is to allow the commission to evaluate the proposed plat for conformity with this Chapter and other applicable provisions of this Code and with the comprehensive plan and to evaluate related public improvement plans.
 2. *Applicability.* A preliminary plat shall be required for all subdivisions of property and the recording of single lots within the City, except as provided by Sections 11-2-1(E) and 11-2-3(I).
 3. *Pre-application conference.* Before preparing the preliminary plat, the applicant may request that the director schedule a conference with those departments affected by the proposed plat, to discuss the results of the staff's sketch plat review. The director will schedule the conference to follow the 12-day period allowed for review of the sketch plat and will invite representatives of the departments of utilities, community services and others, as applicable, to meet with the applicant.
 4. *General application requirement.* On forms approved by the City, the applicant shall file for approval of a preliminary plat. The plat shall include a drawing of the boundary description which has been prepared by a registered surveyor and shall bear his seal, signature and date on each sheet and a statement that the boundary description shown thereon accurately describes the survey of the tract boundary conducted by said surveyor. The payment of all applicable fees shall be required at the time of submission. The proposed preliminary plat shall conform to the following standards and shall contain the following information in addition to the requirements specified in Section 11-2-3(A):
 - (a) Application form provided by the office of the director.
 - (b) The plat shall be clearly and legibly drawn to a scale of 1:2,500 (1" = 200') or such larger scale as may be required by the director or commission.
 - (c) Proposed use of lots and restrictive covenants, if any common area is proposed.
 - (d) Contours with intervals of 0.30 meter (1 foot) referred to National Geodetic Vertical Datum of 1929, as required for a sketch plat. Contours, including benchmark references, shall be determined from the benchmark elevation given by the City engineer, if available. The location and elevation of the reference benchmark shall be specified on the plat.
 - (e) Location of existing utilities, drainage channels, power poles and such other significant items which may affect general development of the property.
 - (f) All parcels and easements to be dedicated to public use, including off-site dedications within 100 meters (330 feet) of the plat boundary.
 - (g) Layout, names and widths of streets with curve data, alleys and easements.
 - (h) Layout, numbers and approximate dimensions of lots and blocks.
 - (i) Tract lines and record owners of all unplatted land immediately adjoining the proposed subdivision within a distance of 100 meters (330 feet) thereof.
 - (j) Existing improvements located within or near the boundary of the tract(s) to be subdivided.
 - (k) Boundaries and existing features required on final plats shall be shown and described by a registered surveyor based on a survey on the ground and certified by him.
 - (l) A drainage plan in the form and containing the elements specified by the City of Midland storm drainage design manual.
 - (m) Proposed water, sanitary sewer and storm sewer pipelines with culverts, bridges, and other appurtenances or structures shown.
 - (n) Stormwater retention or detention basins as required.
 - (o) Phases of development and schedule of phasing.

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5. *Public improvements installed prior to final plat.* If the developer intends to install public improvements in the subdivision prior to approval of the final plat, the preliminary plat shall contain the engineering plat data required for final plats by Section 11-2-3(H)3(b) except items (1) and (8) thereof.
 6. *Filing.*
 - (a) The developer, at least 12 days prior to the date of any regular meeting of the commission at which consideration is desired, shall file the preliminary plat and application for approval with the commission. The preliminary plat shall be considered officially filed only when it has been received in the office of the director in full compliance with the provisions of this subsection (D). The following notice shall be stamped on the face of each preliminary plat: "Preliminary Plat—for review purposes only."
 - (b) *Filing fee.* A filing fee shall accompany each preliminary plat when submitted. Said fee shall be for the purpose of defraying, in whole or in part, the cost of review of said plat, and no refund shall be made.
 7. *Review by director.* The director, following determination that the application is complete, shall transmit copies of the plat to the director of utilities and the Texas Department of Transportation when the land to be subdivided abuts a state or state-maintained highway. The director shall review the plat for conformance with the requirements of this Chapter and shall make recommendations to the commission for approval, conditional approval or disapproval of the preliminary plat. The director also shall report the applicable comments and recommendations of other agencies to the commission.
 8. *Standards for approval.* No preliminary plat shall be approved by the commission or by the Council unless the following standards have been met:
 - (a) A preliminary drainage plan has been approved by the City engineer. The city engineer may approve a preliminary drainage plan which does not include information in sufficient detail to determine whether public street, alley and drainage improvement plans which will be submitted later will conform to all usual standards, but the lack of such detailed information shall result in approval of the preliminary plat being conditioned as described in paragraph 13 below, whether such condition is or is not explicit in the commission or Council's action.
 - (b) The plat conforms to applicable zoning and other regulations.
 - (c) The plat meets all other requirements of these regulations, subject to approval of variances.
 9. *Plats requiring zoning district changes.* A preliminary plat which is dependent, for conformance with this Chapter or the comprehensive plan, upon changes in existing zoning districts may be considered by the commission concurrently with its consideration of such zoning district changes. If the commission makes a recommendation to the Council that the needed zoning district changes be approved, it may then consider and approve the preliminary plat, conditioned upon later zoning approval by the Council. Following conditional approval by the commission, if the preliminary plat is one that requires Council approval, it shall be forwarded for Council consideration along with the needed zoning district changes. If the commission recommends that the needed zoning district changes be disapproved, the commission shall disapprove the preliminary plat, citing as its basis the lack of conformity of the proposed plat to the existing zoning districts and this Chapter, and the plat shall not be further considered unless the Council subsequently approves the needed zoning district changes. In the event of such subsequent zoning approval within a period of 90 days following the commission's disapproval of the proposed plat, the developer shall be entitled to file the preliminary plat for reconsideration by the commission, and no additional plat review fee shall be charged for the refiling.
 10. *Action by the commission.* Upon receipt of the preliminary plat and other information from the director together with his recommendations, the commission shall render a decision within 30 days from the date the plat was properly filed with the director. The commission may approve, disapprove or

conditionally approve the preliminary plat. If approval by the Council is required pursuant to Section 11-2-3(D)11, approval by the commission shall be considered a recommendation to the Council and shall be subject to the Council's concurrence, modification or disapproval.

11. *Approval by the Council.*

- (a) Approval by the Council shall be required prior to consideration of a final plat by the commission for any preliminary plat which:
 - (1) Is ten hectares (25 acres) or more in area and involves any request for a variance from the regulations of this Chapter;
 - (2) Includes any new street or continuation of an existing street which connects two arterial streets;
 - (3) Involves a request for a variance from any of the subdivision design standards affecting any arterial street;
 - (4) Does not provide an alley abutting or connected by pedestrian access easement to each lot zoned for four dwelling units or less;
 - (5) Includes any proposed private street or alley or other area of common ownership;
 - (6) Is ten hectares (25 acres) or more in area and is located in any survey section (approximately one square mile) which does not contain a publicly owned site or sites intended for both a public school and park, or public site reservation therefor;
 - (7) Involves any other matter cited in this Chapter as requiring Council approval;
 - (8) Involves any matter of such policy significance that the commission determines that said plat should be considered by the Council; or
 - (9) Includes any potentially significant problem, in its form as approved by the commission, that the City manager determines, upon the recommendation of any department head of the City, should be considered by the Council.
- (b) The preliminary plat, together with the recommendation of the commission, shall be submitted, by the director, to the Council for its consideration where required, within 30 days after approval by the commission or following the filing of a revised preliminary plat, conforming to all conditions of approval by the commission.
- (c) The Council shall act on the preliminary plat and recommendation of the commission within 20 days after receipt from the director unless such time is extended by agreement with the property owner.
- (d) The Council shall review the recommendation of the commission and determine whether to approve, conditionally approve or disapprove the preliminary plat.

12. *Recording action taken.* When the preliminary plat has been approved, conditionally approved, or disapproved, the director or his designee shall notify the property owner in writing. All objections made to the preliminary plat, or conditions imposed, shall be furnished to the property owner in writing. When a preliminary plat has been approved, the director shall stamp a copy of said plat as approved and affix his signature and date of approval thereto, together with a statement of the conditions of approval, if any, and retain the plat for the City's records.

13. *Effect of approval.*

- (a) Approval of a preliminary plat shall be considered to be approval of the general arrangement of lots, streets and alleys and the widths of streets and alleys but is conditional and shall not be

considered to be final acceptance of the subdivision or approval that all dimensions, notations and other matters of detail appropriate to a final plat are sufficient. Approval shall also be subject to approval of public improvement plans by the City engineer, and matters such as the locations, alignments, and widths of streets, alleys and easements are subject to the possible need for changes if public improvement plans as submitted by the developer do not conform to the usual standards for such facilities. If any plat is disapproved by the commission or Council, such disapproval shall be deemed a refusal by the City of the offered dedications shown thereon.

- (b) Approval of a preliminary plat by the commission, and completion of a development agreement, if applicable, constitutes authorization for the City engineer to release public improvement plans subject to his final approval and for the property owner to commence grading of the site and construction of such public improvements as he desires. Approval of a preliminary plat also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval. Upon release of the public improvement plans, the City engineer shall issue a certificate indicating the said plans have been released and construction of the improvement is thereafter authorized. Additional certificates may be issued by the City engineer authorizing the construction of private utilities on a phased schedule. The certificate shall read as follows: "The preliminary plat for (insert name of the subdivision or addition) as approved by the City of Midland (Planning Commission) (Council) [insert whichever body is applicable] on (insert date of approval) is authorized for the construction of public improvements as approved by the City engineer. A final plat shall be approved by the planning commission upon the completion of all public improvements or the provision of a subdivision improvement agreement and a public improvements guarantee as required and submission of a final plat in compliance with Section 11-2-3(G) and (H) of the Midland City Code, as amended."

14. *Lapse of preliminary plat approval.* The applicant shall submit a final plat to the City for the entire area for which a preliminary plat has been approved, or, if the subdivision is to be developed in phases, the first of a series of final plats, each covering a portion of the approved preliminary plat, within six months of the date of approval or conditional approval of the preliminary plat. Each time the applicant submits a final plat of one phase of the development, conforming to the approved preliminary plat, and said final plat is approved, the approval of the preliminary plat shall be extended for a period of one year from the date of approval of said final plat. If the property owner fails to submit an initial or additional final plat application within such period, the preliminary plat shall lapse, and all further proceedings concerning the subdivision shall terminate. The applicant shall be required to submit a new sketch plat or preliminary plat, as required by this Chapter, subject to all zoning and subdivision standards then in effect.

(E) *Amendments to preliminary plat.*

1. At any time following the approval of a preliminary plat, and before the lapse of such approval, a property owner may request approval of an amendment.
2. The commission shall approve, conditionally approve or disapprove any proposed amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment.
3. If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the commission, the applicant may withdraw the proposed amendment.

(F) *Extension and reinstatement procedure.*

1. Sixty days prior to the lapse of approval for a preliminary plat, the property owner may petition the commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the commission.

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2. In determining whether to grant such request, the commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, the extent to which the property owner agrees to abide by newly adopted subdivision regulations, and any changed conditions in the surrounding area which would make an extension undesirable. The commission shall extend its approval of the plat, or deny the request. In the event the commission denies extension of the preliminary plat, the property owner must submit a new application for approval.
 3. The commission may specify a shorter time for lapse of the extended plat than is applicable to original approvals, but shall not extend the period that a preliminary plat approval is valid to more than two years from the date of original approval.
 4. At any time following the lapse of approval of a preliminary plat, a developer may request, and the commission may approve, at its discretion, a reinstatement of such preliminary plat for the purpose of considering and approving a final plat for all or a portion of the area covered by the preliminary plat. The commission shall reinstate a preliminary plat only when it determines that it would be in the public interest to do so to avoid unnecessary review of a new sketch plat, if applicable, and preliminary plat, and when the pattern of development proposed by the plat would not be to the detriment of any nearby area or the general development of the City. The commission may establish such conditions on reinstatement as are necessary to ensure that the reinstated plat conforms to the City's comprehensive plan, Chapter 1 of Title XI of the Midland City Code, as amended, and provisions of this Chapter, including plans or policies referenced herein, which may have been amended since the original approval of the lapsed preliminary plat.

(G) *Public improvements.*

1. *Timing of public improvements.* Except as provided otherwise herein, all street, alley, water, sanitary or storm sewer, and other public improvements, as well as lot improvements on the individual lots of the subdivision or addition as required in these regulations, for subdivisions within the City or within 1.5 kilometers (0.93 miles) thereof, shall be installed as required by the public improvement plans, prepared in accordance with Section 11-2-4, offered for dedication and accepted by the City prior to final plat approval. The required improvements shall be those specified and approved by the City in the public improvement plans. As used in this Section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.
2. *Request for deferral of improvements.* The developer may request that subdivision improvements be installed, offered for dedication and accepted by the City following final plat approval. If the City agrees, the developer shall be required to execute a subdivision development agreement and provide security as required by Section 11-2-4. The developer shall include a schedule of phasing and construction for the development agreement.

(H) *Final plat.*

1. *Purpose.* The purpose of a final plat is to record the subdivision of property, including but not limited to the accurate description of blocks, rights-of-way, easements, building lines and street names and other property restrictions.
2. *Applicability.* A final plat shall be required for all subdivisions of property and the recording of single lots within the City, except as otherwise provided in Section 11-2-1(E). A final plat shall require approval by the commission.
3. *General application requirements.* The final plat shall contain all of the information required for plats, as specified in Section 11-2-3(A). In addition, the application shall be accompanied by the following:
 - (a) If a final plat approval is required by the county, such plat shall be signed by an authorized county official prior to filing of the application with the City.

(b) Copies of the proposed final plat, clearly and legibly drawn on one or more sheets of mylar or other comparable material with a minimum dimension of 40 centimeters (16 inches) to a scale of 1:1,200 (1" = 100') or such larger scale as required by the director or commission. The plat shall have a minimum letter size of 0.20 centimeter (0.08 inch). The density of inking shall be sufficient to insure legible reproduction of the entire plat. The plat shall contain the following:

- (1) Language stating: "Notice: Selling a portion of this addition by metes and bounds may be a violation of City ordinance and state law and subject to fines and withholding of utilities and building permits."
- (2) The boundary lines with accurate distances and courses and the exact location and width of all existing or recorded streets, blocks, lots, alleys, easements or other rights-of-way, watercourses, and other important features within or adjacent to the boundaries of the tract and within 60 meters (200 feet) thereof. Lines or indications outside the plat boundary shall be dashed lines. The boundary of the tract or tracts the plat is proposed to subdivide shall be shown with distinctly heavier lines than other lines on the plat (solid if tract boundaries, dashed within continuous rights-of-way).
- (3) If the subdivision is within 1.5 kilometer (1 mile) of an existing city survey control monument, at least two corner points on the subdivision boundary shall be tied by grid bearing and grid distance to a city survey control monument and shown on the plat. Two additional corner points on the opposite side of any subdivision greater than 16 hectares (40 acres) in area shall be tied to a city survey control monument. These boundary corner points shall be described by theta angle and combination sea level and mapping grid factor, relative to the U.S. Coast and Geodetic Survey NAD 83 Plane Coordinate System. If the subdivision is not within one mile of an existing city survey control monument, the subdivision boundary ties shall be to the nearest established street intersection and to a permanent survey monument (PSM) accepted by the City engineer as a known point for survey reference. The location and description of each PSM required by Section 11-2-5(A) shall be shown on the final plat. Those PSMs which are not required to be in place prior to filing of the final plat with the director for consideration shall be depicted as proposed monuments.
- (4) The location and elevation of each benchmark required by Section 11-2-5(A) and the vertical datum used to establish the elevation of each benchmark.
- (5) Course and distance of all street centerlines, including curve data comprised of the central angle, tangent length, arc length, chord length, and chord bearing or azimuth. This data may be shown adjacent to each curve or compiled in a curve table on the plat.
- (6) The exact layout of all plat features, including (i) street names; (ii) length of all arcs, radii, internal angles, points of curvature, length, and bearings of the tangents; (iii) locations and dimensions of all easements for rights-of-way provided for public services or utilities, including guying easements, and any limitations of the easements; and (iv) all lot and block numbers and lines with accurate dimensions in meters (feet), and hundredths of meters (feet). The courses, either in bearing or azimuth form, of all lot lines shall be shown either adjacent to the lot line or in a line table on the plat. Curve data shall be presented for all curves including returns at block corners and length, arc length, chord length, and chord bearing or azimuth. This data may be shown adjacent to each curve or compiled in a curve table on the plat.

Cul-de-sac turnarounds shall have curve data shown on the plat. The radius point of such turnarounds must be shown on the plat and course and distance shown to the right-of-way lines.

Where a street or other public right-of-way lies along a boundary of the plat and the property on the opposite side of said right-of-way is located within a platted subdivision, the plat survey shall certify the total width of the right-of-way, including any additional dedication being made by the plat, and the property corners along the opposite side of the right-of-way and the minimum dimensions across said right-of-way shall be shown on the plat.

- (7) The accurate outline of all property being offered for dedication for public use with the purpose indicated thereon, including off-site dedications within 100 meters (330 feet) of the plat boundary, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision or addition.
 - (8) Special restrictions including, but not limited to, drainage, fire lanes, screening, standard notes for floodway, if applicable, and other standard notes for plats, including boundaries and notes required for special flood hazard areas, as specified by Section 11-2-5(D)6, where applicable.
 - (9) Certification by a registered surveyor to the effect that the plat represents a survey made by him or under his supervision and that all the monuments shown thereon have been placed under his direction, and that their location, size, and material description are correctly shown, and that the survey correctly shows the locations of all visible easements and rights-of-way and all rights-of-way, easements and other matters of record affecting the property being platted.
 - (10) Plat boundary survey closure and subdivision area calculation.
 - (11) The volume and page or filing references of recorded instruments in the county records of each existing public dedication and public and private easement which encumbers the area of the plat.
- (c) Additional documents necessary for dedication or conveyance of easements or rights-of-way, as required by the City. The City may, in some instances, require the conveyance of fee simple title for certain rights-of-way. Except as otherwise provided in this Chapter, the developer shall be responsible for securing and submitting, in proper form, with the plat, all dedication instruments needed in conjunction with the plat, but located outside the plat boundary.
 - (d) Formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, and easements either in the form specified herein on the plat or, if separate, in a form approved by the City attorney.
 - (e) A copy of an owner's policy of title insurance, a commitment for issuance of a title policy, or a title opinion prepared by a member in good standing of the Texas Bar Association. Said title policy, title commitment, or title opinion must have been issued and dated not earlier than 90 days prior to the date the final plat is considered by the City and identify all record owners and lienholders of the property covered by the final plat as of the date of issuance.
 - (f) The development agreement and security, if required, in a form satisfactory to the City attorney, and in an amount established by the commission upon recommendation of the City engineer, as provided in Section 11-2-4, and shall include a provision that the property owner shall comply with all the terms of the final plat approval as determined by the commission.
 - (g) A plat application fee in an amount as set by the Council.
 - (h) The final plat shall also be supplied in digital form either as a DOS Auto Cad ".dxf" or ".dwg" file or as a DOS ASCII text file. A ".dxf" or ".dwg" file shall contain the plat boundary and all lots within the subdivision. If an ASCII text file is supplied, it shall contain the point numbers and

coordinates for all lots, radius points, and boundary points for the subdivision, together with a point drawing which shall supply the location of all points and their respective numbers. Alternatively, the developer may choose not to submit a digital file and shall instead pay a fee which will be established in the schedule of platting fees for conversion of the plans to digital form by the City.

- (i) Construction record drawings prepared by the property owner's engineer, if public improvements have been completed, as required by Section 11-2-4(C)2.
- (j) A written application for final approval and authorization for the City secretary to file the plat with the county clerk for recording. The application shall also authorize the filing of the associated documents which are approved by the commission and shall authorize the City to reproduce from the plat, at the expense of the applicant, two film positives, ten direct prints for city record files, and one direct print for each utility company franchised to provide service within the City, after final approval.
- (k) Tax certificates showing that no taxes are delinquent against the land being platted.
- (l) Restrictive covenants which require approval by the planning and zoning commission.
- (m) Certificates to be placed on plat as applicable:
 - (1) Owner's certificate (to be placed on plat), which must be acknowledged by the owner(s) of the property in the same manner as deeds as required by V.T.C.A., Property Code § 12.001, as amended. Acknowledgments may be modified to reflect the type of individual or entity who has an ownership interest in the property and the capacity in which a person is signing, e.g., partner, officer of corporation, etc. A separate acknowledgment should be made for each person signing. A separate acknowledgment need not be done for the same person signing in various capacities (i.e., both individually and as a corporate officer) if the signature block and acknowledgment indicate all capacities in which the person is signing.

OWNER'S CERTIFICATE

STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, _____ is/are the record owner(s) of a tract of land situated in the _____ Survey, County of Midland, and more particularly described (as follows:) (hereon.) [use whichever applies]

BEGINNING ... (if applicable)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That _____ do(es) hereby adopt this plat designating the hereinabove described property as _____, an addition to the City of Midland, Texas, and, hereby dedicate to the public use forever the streets, alleys and easements (and parks) (and parkways) (and drainage basins) [include all that apply] shown thereon.

WITNESS our hands at (City, State), this the ____ day of _____, 19___. (Include a separate statement for each location or date of signature.)

	(Print or Type Name Here)
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*If applicable.

ACKNOWLEDGMENT

STATE OF TEXAS
COUNTY OF

This plat was acknowledged before me on ___ (DATE) ___ by ___ (NAME OF OWNERS SIGNING ABOVE) ___.

(Notary Seal)	Notary Public, State of Texas
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(2) Surveyor's certificate.

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, _____, a Registered Professional Land Surveyor, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

	(Print or Type Name Here) Registration Number _____
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(3) Certificate of approval by the City planning and zoning commission (to be placed on plat).

CERTIFICATE OF APPROVAL

For approval by the commission:

This is to certify that the above and foregoing plat of _____ Addition was approved by proper action of the City Planning and Zoning Commission of the City of Midland, Texas on this ___ day of _____, 19__.

	Signed: (Print or Type Name Here), Chairman
	Attest: (Print or Type Name Here), Secretary

For approval by the Director:

This is to certify that the above and foregoing plat of _____ Addition was approved by proper action of the Director of Engineering and Development of the City of Midland, Texas on this ___ day of _____, 19__.

	Signed: (Print or Type Name Here), Director, Engineering & Development
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(4) Utility company's certificate (to be placed on plat).

This plat has been checked for accessibility of utilities.

	Signed: (Name of each Utility Company)
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Note: Provide one signature line for each utility, not operated by the City of Midland, and franchised to operate within the City.

4. *Filing.* A complete application for approval of a final plat shall be filed, together with all required documents, not less than ten days prior to the date of any regular meeting at which consideration is desired. The final plat shall be considered filed for approval on the date that an application that meets all the requirements of this Section and those elements mandated by V.T.C.A., Local Government Code § 212.004(b), is submitted.
5. *Standards for approval.* No final plat shall be approved by the director, the commission or the Council unless the following standards have been met:
 - (a) The plat substantially conforms to the approved preliminary plat, and all conditions of approval thereof, if a preliminary plat was required.
 - (b) Where the final plat includes only a portion of the area of the approved preliminary plat, and a phasing plan for final plats has not previously been approved by the commission or Council, the partial plat is determined to provide adequate street and alley circulation and otherwise to represent a logical and well-planned phasing of the development and that adequate provision for public improvements has been made.
 - (c) Required public improvements have been constructed and accepted, or a development agreement setting forth a schedule of phasing and construction and providing for security for the subsequent completion of improvements has been accepted by the City.
 - (d) The plat conforms to applicable zoning and other city regulations, and provisions of state law.
 - (e) Provision has been made for adequate public facilities under the terms of this Chapter.
 - (f) The plat meets all other requirements of this Chapter, subject to approval of variances.
 - (g) All escrow and pro rata fees have been paid.
6. *Approval procedure.*
 - (a) *Review by director.* The director, following determination that the application is complete, shall transmit copies of the final plat to the director of utilities and to the Texas Department of Transportation when the land to be subdivided abuts a state or state-maintained highway. The director shall forward all legal documents to the City attorney for approval as to form. The director shall review the plat for conformance with the requirements of this Chapter and shall make recommendations to the commission for approval or disapproval of the final plat. The director shall notify the property owner of any recommended changes or suggestions so that the final tracing or other required material may be corrected and resubmitted for final approval.
 - (b) *Time requirement.* The commission shall act on the final plat within 30 days after the filing of the plat or corrected plat, as may be the case, unless such time is extended by agreement with the subdivider or his agent. If approved, the chairman and secretary of the commission shall affix their signatures to the plat denoting final approval. If not approved within 30 days from the date of filing, the commission shall disapprove and reject the plat with the right to reconsider same when the objections are cured.

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- (c) *Recording.* Upon approval of the final plat, the commission shall immediately forward the plat to the City secretary, who shall record one copy of the plat and requisite documents in the office of the county clerk.
7. *Effect of approval.* Approval of a final plat shall certify compliance with the regulations of the City pertaining to the subdivision of land. An approved and signed final plat may be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.
- (I) *Alternative approval procedures.*
- 1. *Short form procedure.*
 - (a) *Applicability.* The procedure provided herein may be followed for approval of a subdivision when the land proposed to be subdivided or resubdivided meets the following conditions and requirements:
 - (1) *Adequate existing streets, easements and public areas.* The land abuts upon a street of adequate width and is so situated that no additional street, alley, easement nor other public property is required in order to meet the requirements of this Chapter.
 - (2) *Satisfactory survey, plat and proximity to monument.* The perimeter of the tract being subdivided has been surveyed and marked on the ground and a plat thereof prepared by a registered surveyor and filed with the director showing that the nearest corner of each lot or parcel of such proposed subdivision is within 60 meters (200 feet) of a known corner which is adequately marked by concrete monument or iron stakes, as determined by the City engineer.
 - (3) *Satisfactory drainage.* The topography of the tract and the surrounding land is such that no drainage improvements are required, or, where drainage facilities are required, arrangements have been made for the construction of such facilities as approved by the director.
 - (4) *Utilities.* The utilities, as required in this Chapter, are in place to serve each parcel or lot of such subdivision or resubdivision, or arrangements to provide such facilities have been made.
 - (5) *Zoning.* The proposed map of any part of the subdivision is not inconsistent with existing zoning.
 - (b) *Procedure.* Not sooner than 12 days following submission of a sketch plat, the final plat may be submitted for consideration without prior approval of a preliminary plat. All requirements and procedures for final plat approval shall be as specified in Section 11-2-3(H), except that final plats which are to be considered pursuant to this procedure shall be filed with the director not less than 14 days prior to the commission meeting at which consideration is requested, with a written request for short form consideration.
 - 2. *Administrative approval.*
 - (a) *Applicability.* If a proposed minor plat contains no more than four lots and requires no public improvements nor the creation of any public streets, nor the extension of any public facilities, the director may approve the final plat without consideration by the commission. The director may not approve a variance to these regulations, nor disapprove the proposed plat.
 - (b) *Procedure.* Submittal requirements and approval standards shall be the same as for other final plats. The director shall approve the minor plat within 30 days from the date the application is filed. If the director determines not to approve the plat, he shall transmit the plat to the

commission for its consideration within sufficient time to enable the commission to act on the plat within 30 days from the date the application is filed. The time for approval of the plat may be extended by agreement with the property owner.

3. *Survey monumentation.* For plats approved by short form procedure or through administrative approval, at least two corner points of the plat boundary shall be tied to a city survey monument by grid course and grid distance shown on the plat if it:
 - (a) Contains any parcel or combination of parcels which is zoned as a nonresidential district and which is 0.5 hectare (1.2 acres) or more in area or contains a total area of all parcels of 1.0 hectare (2.5 acres) or more; and
 - (b) Lies within 1.5 kilometers (1.0 mile) of a city survey monument.

If not, it shall show a tie to any established point approved by the City engineer.

4. Benchmarks shall be shown as required for other final plats.

(Ord. No. 7333, § 1, 6-14-1994)

11-2-4. Assurance for completion and maintenance of improvements.

(A) *Required improvements and required subdivision development agreement.*

1. *Public improvement plans review.*

(a) *General application requirements.* Public improvement plans shall be prepared by or under the supervision of a professional engineer registered in the State of Texas as required by state law governing such professions. Plans submitted for review by the City shall be dated and bear the responsible engineer's name, serial number and the designation of "engineer," "professional engineer," or "P.E." and an appropriate stamp or statement near the engineer's identification, stating that the documents are for preliminary review and are not intended for construction. These plans shall conform in all details to the City's standards as to the design, grade, location, size and quality of materials and construction. Final plans acceptable to the City shall bear the seal and signature of the engineer and the date signed on all sheets of the plans.

(b) *Public improvement plan review and inspection procedure.*

- (1) Copies of the public improvement plans, and the required number of copies of the plat, shall be submitted to the engineering and development department for approval prior to submittal of a final plat.
- (2) Plans and profiles submitted by the developer's engineer shall be prepared on standard 60-centimeter by 90-centimeter (24-inch by 36-inch) sheets. Plans and profiles shall be shown at scales of 1:500 or 600 (1" to 50') horizontal and 1:20, 24, or 25 (1" to 2') vertical, or at a scale which is approved by the engineering division. The plans shall contain all necessary information for construction of the project, including screening walls if proposed, and other special features. Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made.
- (3) Two copies each of plans and specifications shall initially be submitted for preliminary review and comment by the City engineer, who shall return his comments within a period of seven days. Upon receipt of those comments, revisions shall be made as required and not less than six copies with revisions (nine copies if a development agreement is to be prepared) shall be submitted not later than 11 days prior to a Council meeting at which a

development agreement is to be considered, if applicable, or not later than seven days prior to desired final approval if a development agreement is neither desired nor required. Upon the City engineer's approval, and following completion of a development agreement, if applicable, he will release the plans for construction, subject to approval of the preliminary plat by the commission and payment of all inspection fees, stamping all copies with his approval, retaining four copies (seven copies if a development agreement has been completed) for city records and use, and returning all other copies to the developer's engineer for the purpose of construction site use. The developer's engineer shall then return a set of plans to become the permanent property of the engineering division of the City. Upon release of approved plans, one set of plans, bearing the original stamp of approval by the City engineer, shall remain available to the contractors on the project site, and only plans bearing the original stamp of approval shall be used to verify the approved manner of construction.

- (4) Upon approval of the preliminary plat and improvement plans by the engineering division, the developer may enter into a contract for the construction of the improvements as so planned; provided, however, that the construction and installation of the improvements shall be inspected by inspectors of the City to ensure that the installation is made in accordance with the plans and the City's standard specifications which, in every instance, shall be a part of said installation contract.
 - (5) When the project is ready for construction, line and grade stakes will be set by the developer's engineer and will be inspected by the engineering division. These stakes will not be set until after the developer's surveyor has properly staked on the ground all points of curves, including radius points for alley returns and street intersections, all points of tangency, and all block corners. Lot corners shall be staked by the owner's surveyor and inspected by the engineering division prior to authorization by the City engineer for a building permit to be issued as provided in Section 11-2-4(D).
- (c) This procedure shall also apply to approval of a final plat, if a preliminary plat is not required.
2. *Development agreement and guarantee of completion of public improvements.*
- (a) *Public improvements required.* Except when waived or deferred by the Council, subdivision development improvements conforming to adopted city standards shall be provided by the developer for any subdivision, or portion thereof, within the City and within its extraterritorial jurisdiction. Said improvements shall be completed prior to the approval of a final plat by the City or shall be completed according to a development agreement and ensured by a security as specified herein.
 - (b) *Development agreement.* In the event the property owner elects to delay installation of all or some of the required public improvements to a time after approval of the final plat and the City agrees, the property owner shall enter into a development agreement incorporating approved development plans and by which he covenants to complete all required public facility improvements and lot improvements, including, but not limited to, soil preservation, removal of debris and waste, and all other lot improvements required by the City engineer, no later than 12 months following the date upon which the final plat is approved. Where the final plat is only a portion of the approved preliminary plat, the agreement shall contain a general schedule of phasing and construction for the entire plat. To the extent that the City waives any portion of the security required by this Chapter, the agreement also shall contain provisions requiring construction of all public facility and lot improvements upon demand by the City. The development agreement shall contain such other terms and conditions as are agreed to by the property owner and the City in addition to the following required terms:

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- (1) Agreement to maintain the public improvements until such improvements are accepted by the City.
 - (2) Agreement to cooperate with city inspectors and to abide by all rules and regulations relating to city inspection.
 - (3) Designation of the extent of the City's participation in construction costs and the sources of reimbursement from fees to be collected from other developments.
 - (4) When required by applicable Texas statute, an agreement to abide by the competitive bidding requirements and procedures set forth under Texas law.
 - (5) A plan for the phasing of final plats of portions of the area of the preliminary plat, if the entire area will not be included in a single final plat, each phase thereof being subject to a determination by the Council that it will provide adequate street and alley circulation and otherwise represents a logical and well-planned phasing of the development.
- (c) *Security.* Whenever the City permits a property owner to enter into a development agreement, the owner shall provide sufficient security to ensure completion of the required public improvements. The security shall be in the form of either:
- (1) A cash escrow; or
 - (2) A letter of credit drawn upon a state or national bank. Said letter of credit shall (a) be irrevocable, (b) be of a term sufficient to cover the completion period plus 30 days, and (c) require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit; or
 - (3) A performance bond or surety bond for the same time period in a form approved by the City attorney securing performance of the provisions of the development agreement by the developer.

Said security for completion of all improvements shall be issued in the amount of 100 percent of the funds estimated by the City engineer to be necessary to pay for all required public improvements, including all promises and conditions contained in the development agreement.

In addition to all other security for completion of those public improvements required in the development agreement, the owner shall provide a performance bond and payment bond from the contractor, with the City as a co-obligee. Such performance and payment bonds shall be equal to the total amount set forth in the contractor's contract.

The issuer and form of any surety bond and letter of credit shall be subject to the approval of the City attorney. The performance and payment bonds must be executed by a corporate surety in conformance with V.T.C.A., Government Code ch. 2253, as amended.

- (d) *Waiver of development agreement or security.* The Council may waive the requirement of a development agreement or all or a portion of the security requirements of this Chapter if it finds that the public health, safety and general welfare will not be harmed by such waiver, taking into consideration the extent of public facility and lot improvements required to be installed, the likelihood that such improvements will be installed by the subdivider within the period specified in subsection (a), the impacts that may result if such improvements are not timely installed, and the hardship to the subdivider if development agreement and/or security requirements are imposed. A waiver of development agreement or security requirements shall be conditioned on execution of covenants by the subdivider, stating that the public facility and lot improvements will be constructed on demand by the City.

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- (e) Reserved.
 - (f) *Release of security.* As portions of the public improvements are completed in accordance with the development agreement, city regulations, and the approved public improvement plans, the developer may make application to the director to reduce the amount of the original letter of credit, bond or cash escrow. If said director is satisfied that such portion of the improvements has been completed in accordance with city standards, he may cause the amount of the letter of credit, bond or cash escrow to be reduced by such amount that he deems appropriate, so that the remaining amount of the letter of credit or bond or cash escrow adequately insures the completion of the remaining public improvements. Final release of the security shall be subject to a retainage of 20 percent of the total until a certificate of satisfactory completion has been issued by the City engineer as specified by Section 11-2-4(C)2 hereof.
 - (g) *Governmental units.* Governmental units to which these contract and security provisions apply may file, in lieu of the security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Section and affirming that current funds have been appropriated for the purpose of paying for the construction of the required public improvements.
3. *Failure to complete improvements.* For plats for which no development agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the City, the preliminary plat approval shall be deemed to have lapsed and further proceedings on the plat shall terminate, and the obligation to construct improvements required by this Chapter shall immediately mature. In those cases where a development agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may:
- (a) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default.
 - (b) Obtain funds under the security and complete the public improvements itself or through a third party.
 - (c) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision or addition, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract.
 - (d) Approve an extension of the period of the security.
 - (e) Exercise any other rights available under the law.
4. *Temporary improvements.* The property owner shall build and pay for all costs of temporary improvements required by the commission and shall maintain those temporary improvements for the period specified by the commission. Prior to construction of any temporary facility or improvement, the owner shall file with the City a separate development agreement and security in an appropriate amount for temporary facilities, which agreement and security shall ensure that the temporary facilities will be properly constructed, maintained, and removed.
5. *Acceptance of dedication offers.* Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by established procedures for such acceptance and shall be documented in the official files maintained by the City secretary or city engineer. Approval of a plat, whether preliminary or final, shall not be deemed to constitute acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated improvement, unless the City makes an actual appropriation of the dedicated improvement by entry, use, or improvement or written acceptance by the City engineer.

(B) *Construction procedures.*

1. Construction of all public works projects shall be in accordance with the most recent version of City of Midland standard construction specifications and shall be in accordance with development plans approved under Section 11-2-4(A).
2. *Preconstruction conference.* The city engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work. If a conference is to be required, the City engineer shall notify the developer at or prior to the time that the public improvement plans are approved.
3. *Conditions prior to authorization.* Prior to authorizing construction, the City engineer shall be satisfied that the following conditions have been met:
 - (a) The preliminary plat shall have been approved by the commission or Council as required.
 - (b) All required contract documents shall be completed and filed with the City engineer.
 - (c) All necessary off-site easements or dedications required for public facilities not shown on the final plat must be conveyed solely to the City, in a form approved by the City attorney and with proper signatures affixed. The original of the documents, and filing fees as determined by the City secretary, shall be delivered to the engineering division prior to approval and release of the engineering plans.
 - (d) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the engineering division, for use on the job site.
 - (e) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City engineer.
 - (f) All applicable fees must be paid to the City.

(C) *Inspection of public improvements.*

1. *General procedure.* Construction inspection shall be supervised by the City engineer. Construction shall be in accordance with the approved plans and the City of Midland standard specifications. Any change in design required during construction should be made by the engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions shall be approved by the City engineer. If the City engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the City's construction standards and specifications, the developer shall be responsible for completing and/or correcting the public improvements in accordance with said standards and specifications.
2. *Certificate of satisfactory completion.* The City will not accept dedication of required public improvements until the applicant's engineer or surveyor has certified to the City engineer, through submission of detailed construction record drawings on a survey plat of the property, showing the location, dimensions, materials, and other information required by the commission or city engineer. The construction record documents shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer, or other public improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the plat. Each construction record sheet shall show all changes made in the plans during construction and on each sheet there will be a stamp bearing the signature of the engineer and date. The engineer shall provide to the City the construction record information in the form of one reproducible drawing of each of the utility plan sheets and one digital Auto Cad ".dxf" or ".dwg" file of the master layout sheet of water, sewer, paving and drainage facilities. Alternatively, the developer may choose not to submit a digital

file and shall instead pay a fee which will be established in the schedule of platting fees for conversion of the plans to digital form by the City.

Further, the City will not accept dedication of required public improvements until an escrow deposit, letter of credit, or performance bond, conforming to the same requirements as Section 11-2-4(A)2(d), and providing security of the warranty, in the amount of the total cost of the improvements, that the improvements are free from defects for the period of the required warranty, whether by the contractor or the developer, has been presented to the City.

When such requirements have been met, the City engineer, on behalf of the City, shall thereafter accept the public improvements for dedication in accordance with the established procedure. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The city engineer may, at his discretion, accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all of the required public improvements. Upon acceptance of the required public improvements, the City engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

3. *Maintenance of facilities.* The developer shall maintain all required public improvements until acceptance of the public improvements by the City.

(D) *Issuance of building permits and certificates of occupancy.*

1. No building permit shall be issued for a lot or building site unless the site has been created in compliance with Section 4-1-4, "Site requirements," subsection (C), "Creation of a building site," of the building code, and all public improvements as required for any applicable subdivision plat have been completed, as attested to by the City engineer through the issuance of a certificate of completion, except as permitted below.
 - (a) The city engineer may authorize the building official to issue permits for nonresidential and multifamily (apartment) development provided that a final plat has been approved by the City and construction plans have been released by the City engineer. Building construction will not be allowed to surpass the construction of fire protection improvements.
 - (b) The city engineer may authorize the building official to issue residential building permits for a portion of a subdivision, provided that all public improvements, including lot monumentation, have been completed and accepted for that portion of the development, including but not limited to those required for fire and emergency protection, and a development agreement has been approved by the City for completion of all remaining public improvements and there remains adequate security to complete all public improvements.
2. No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements necessary to serve the property have been completed and accepted.

(Ord. No. 7333, § 1, 6-14-1994; Ord. No. 7702, § 1, 1-27-1998)

11-2-5. Requirements for public improvements, reservation and design.

(A) *General requirements.*

1. *Plats straddling municipal boundaries.* Whenever access to the subdivision is required across land in another municipality, the commission may request assurance from that municipality's attorney that access is legally established, and from its engineer that the access road is adequately improved, or that a bond or other security has been duly executed and is sufficient in amount to assure the construction

of the access road. In general, lot lines should be laid out so as not to cross municipal, county or school district boundary lines.

2. *Character of the land.* Land that the commission 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 which will reasonably 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 platted unless adequate methods are formulated by the owner and approved by the commission, upon recommendation of the City engineer, to solve the problems created by the unsuitable land conditions.
3. *Adequate public facilities policy.* The land proposed for subdivision must be served adequately by essential public facilities and services. Land shall not be approved for platting unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities and transportation facilities in the manner required by Section 11-2-4, which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the City.
 - (a) *Conformance to plans and regulations.* Proposed public improvements shall conform to and be properly related to the City's water distribution master plan, sewer master plan, major thoroughfare plan, master drainage plan, storm drainage design manual, the capital improvements plan and to all requirements of these subdivision regulations.
 - (b) *Utilities.*
 - (1) *Accessible public water supply and wastewater facilities.* Water and wastewater mains shall be installed to serve all lots within the proposed subdivision and shall be extended to the property to be platted in accordance with the water and wastewater extension provisions of Section 11-2-5(E) and (F), provided that water and wastewater mains are reasonably accessible.
 - (2) *Nonaccessible public water supply.* In a proposed subdivision, pending accessibility of public water supply, the subdivider shall be required to construct wells and/or a private water supply system in accordance with specifications of the City health department. Alternatively, the plat may be denied pending connection to a public water main system. Where connection to a public water main system is not to be made immediately, final plat approval shall be conditioned on approval of plans for future installation of a water distribution system to serve each lot, and a development agreement shall be executed in the manner provided in Section 11-2-4. Those parts of such system which lie in the parts of streets and alleys intended for vehicular traffic shall be installed when such streets and alleys are to be constructed to finish grade and in accordance with city specifications (including paving, curbs and gutters), or at any earlier time selected by the developer. All plans and construction shall be subject to the approval of the engineering and development and utilities departments.
 - (3) *Nonaccessible wastewater system.* In a proposed subdivision where public wastewater facilities are not currently accessible, but are expected to be extended to the property in the future, the subdivider shall be required to install sewer lines and a disposal system in accordance with specifications of the City health department pending access to wastewater facilities. Alternatively, the plat may be denied pending connection to such wastewater facilities system. Where connection to a public wastewater facilities system is not to be made immediately, final plat approval shall be conditioned on approval of plans for future installation of a wastewater collecting system to service each lot, and a development

agreement shall be executed in the manner provided in Section 11-2-4. Those parts of such system which will be in the portion of streets and alleys intended for vehicular traffic shall be installed. All plans and construction shall be subject to the approval of the engineering and development and utilities departments. In circumstances where the City health department has determined that there is sufficient area for each platted lot to permit installation of an individual disposal device in accordance with specifications of the department, and it is not anticipated that sanitary sewers will be accessible in the foreseeable future, the City may permit the subdivider to install such individual disposal systems for each lot in the subdivision in lieu of future provision for connection to public wastewater facilities.

- (4) All subdivisions within any area of special flood hazard as defined in this Title, including manufactured home subdivisions and any containing or intended to contain a manufactured home park, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (c) *Streets.* Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation and shall be properly related to the City's major thoroughfare plan and the comprehensive plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. Additional standards and requirements are defined in Section 11-2-5(C).
 - (d) *Drainage.* Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impacts of the proposed development. Additional standards and requirements are defined in Section 11-2-5(D).
 - (e) *Other facilities.* Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the City's comprehensive plan shall be related to the character and uses of the surrounding properties in accordance with the intent, policies and provisions of this Chapter.
- 4. *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, and subdivisions of less than 100 acres in area shall, except where the commission deems such would not be in the public interest, be named as subsequent sections (subdivision name, section _____) of any named subdivisions in the immediate vicinity and in same neighborhood. The commission shall have final authority to approve the name of the subdivision after considering the recommendation of the director.
 - 5. *Subdivision monumentation.* All subdivision monumentation, described as follows, shall be considered to be subdivision development improvements, and shall be inspected and subject to acceptance and release of security, together with other subdivision development improvements, according to the provisions of Section 11-2-4(A) and (C).
 - (a) *Permanent survey monuments.* Permanent survey monuments (PSMs) shall be a minimum of 1.0 centimeter (0.5 inch) diameter iron rods or 1.8 centimeter (0.75 inch) diameter iron pipes not less than 60 centimeters (24 inches) in length, stamped with the surveyor's registration number, set flush and driven to refusal. In unstable soils, the City engineer may require concrete monuments to be set. Concrete monuments shall be not less than ten centimeters (4 inches) in diameter and 60 centimeters (24 inches) in length. They shall be set flush at, or three inches

below, the ground surface and bear a cap with the surveyor's registration number. Concrete monuments shall contain ferrous wire or rods, or a magnet, detectable by a metal locator instrument.

PSMs shall be set at all exterior subdivision boundary points prior to the final plat being filed with the director for consideration. PSMs shall be set according to the standards set forth hereinabove and specifications as determined by the City engineer. They shall be under the jurisdiction of the City engineer.

- (b) *Benchmarks.* Benchmarks shall be set for each residential subdivision which contains any parcel or combination of parcels which is zoned as a nonresidential district and which is 0.5 hectare (1.2 acres) or more in area, or contains a total area of all parcels of 1.0 hectare (2.5 acres) or more. One benchmark shall be required per 4.0 hectares (10.0 acres), or portion thereof, of area subdivided. The elevation of this benchmark shall be based on mean sea level as established by the U.S. Coast and Geodetic Survey. Said elevation shall be shown and referenced on the final plat by an identification code which shall be obtained from the City engineer and stamped on the benchmark. The benchmark design criteria shall be in accordance with specifications prepared by the office of the City engineer.
- (c) *Lot and block corners.* All lot and block corners and points of curvature shall be marked with a minimum of 1.8 centimeters (0.75 inch) diameter galvanized iron pipe or 1.0 centimeter (0.5 inch) iron rods, not less than 45 centimeters (18 inches) in length, driven flush with the ground, and bearing the identifying mark of the subdividing surveyor. In soils of less than 45 centimeters (18 inches) in depth, shorter monuments driven to bedrock may be used.

(B) *Lot design and improvements.*

- 1. *Lot arrangement.* 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 the zoning code, building code and other applicable ordinances, laws and regulations, and that they are not unduly encumbered by easements or other hindrances to reasonable development. Driveway access shall be available to buildings on the lots from an approved street, alley or mutual access easement.
- 2. *Lot dimensions.* Lot dimensions shall comply with the minimum standards of the zoning code. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will result in a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking, loading facilities and landscaping required for the type of use and development contemplated, as established in the zoning code.

In general, the depth of a residential lot should not exceed twice the width of the lot, unless topographic or environmental characteristics create a condition best addressed by an excessive lot depth.

- 3. *Double frontage residential lots.* Double frontage and reversed frontage lots shall be avoided except where approved in a PD Planned District, pursuant to Chapter 1 of this Title, or where a site plan has been approved in conformance with paragraph 8 below, and where conditions of landscaping, screening, preservation of view and the like have been established to avoid the undesirable public views and lack of maintenance of rights-of-way which typically result to the rear of double frontage lots. Where the site plan approval process of paragraph 8 is used, the same requirements shall apply as for nonresidential lots. The plat shall contain the reference required by paragraph 8 and conformance with said site plan shall be a requirement for development of the lots included in said site plan. Except where the commission or Council determines otherwise, any screening wall which is required, and any

sidewalk required by Section 4-1-4 of the building code which is separated from individual lots by a screening wall or common area, shall be considered to be a required subdivision improvement, subject to the requirements of Section 11-2-4.

4. *Lot access.* All platted lots must have direct access to an improved public street or a dedicated and improved mutual access easement or common area. Where the means of access is provided by other than a public street, covenants or other documents providing assurance of perpetual maintenance of said means of access, satisfactory to the commission or Council, shall be submitted, approved, and filed with the plat.
 - (a) Residential lots must have minimum frontage on a dedicated street as required by the zoning code, except where varied through approval of a planned district. Where subdivisions or additions are platted so that the front yards of single-family or two-family residential lots are adjacent to a dedicated roadway, and the roadway is designated as greater than a collector on the major thoroughfare plan, no one- or two-family lot shall have direct access to the thoroughfare by means of a driveway, unless the lot has no frontage on any other street, alley or mutual access easement.
 - (b) The following restriction, which shall run with the land, shall be used to prevent rear driveway access to any streets and side driveway access to an arterial street or freeway from one- or two-family lots: "There is hereby imposed a restriction, which shall run with the land, that lots (backing/siding) [insert correct term] on _____ Street shall not have direct driveway access to said street."
 - (c) *Frontages of corner lots adjacent to arterial streets and highways.* The frontages of any corner lot which abuts an arterial street or highway shall not be less than the following unless the plat, or a separate easement or agreement, makes provision for driveway access through an adjoining lot or, for lots zoned as one- or two-family dwelling district only, the plat has been so arranged to allow for rear driveway access to said lot off an alley or other approved access easement.
 - (1) The frontage of any lot along the street intersecting the arterial street shall be not less than 20 meters (70 feet); and
 - (2) The minimum frontages of a lot zoned as other than a one- or two-family dwelling district shall be sufficient to allow at least one driveway curb cut, not less than ten meters (35 feet) in length and conforming to the requirements of Section 9-4-5, for access to said lot.
 - (d) *Design.* Provisions for and improvement of all points of access shall conform to the City's policies on driveway access and design.
5. *Blocks.*
 - (a) *Block length.* Maximum block length for single-family residential development shall be 400 meters (1,300 feet), measured along the center of the block, when the minimum lot width required by the zoning district is 18 meters (60 feet) or less. If the required lot width is more than 18 meters (60 feet) but less than 30 meters (100 feet), the block length shall not exceed 550 meters (1,800 feet). Where the minimum lot width is not less than 30 meters (100 feet), the block length shall be reasonable but shall not exceed 825 meters (2,700 feet).
 - (b) *Arrangement.* A block shall be so designed as to provide two tiers of lots served by an alley, except as permitted otherwise according to paragraph 3, above. Provided, however, that no alleys shall be required in the AE, Agriculture Estate District, or the CE, Country Estate District, zoning classification.
 - (c) *Other requirements.* Block length and width shall be such as to accommodate the size of lot required in the area by zoning ordinance and to provide for convenient access, circulation control

and safety of street traffic. The commission may require shorter block lengths than the maximum lengths specified hereinabove where the allowed minimum lot width or density, terrain or other factor indicates that shorter blocks are appropriate.

6. *Setbacks at ends of certain culs-de-sac.* Where a lot faces a cul-de-sac turnaround and sides toward another street, a front yard setback of not less than 12.5 meters (45 feet) from the projection of the cul-de-sac's centerline, and extending from the turnaround to said side street, shall be shown on the plat.

7. *Nonresidential plats.*

(a) *Design principles.* In addition to these regulations, which are appropriate to all platting, the applicant shall demonstrate to the satisfaction of the commission or 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 shall be observed:

- (1) Proposed nonresidential parcels shall be suitable in area and dimensions to the types of nonresidential 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, but in no case shall be less than the design standards embodied in the major thoroughfare plan.
- (3) Streets, other than arterial streets, carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or future residential areas.

(b) *Frontage and access standards.*

- (1) *Frontage.* In addition to the requirements of paragraph 4 above, all nonresidential lots established following the effective date of this Chapter and abutting an arterial or more important thoroughfare shall have a minimum of 60 linear meters (200 linear feet) of frontage. All nonresidential lots abutting a collector or less important thoroughfare shall have a minimum of 45 meters (150 feet) of frontage. Exception shall be made for a lot which has frontage on another street as well, but no access shall be allowed to or from the street having less frontage than specified. Further exception may be made where easements are established to provide access to any lot having less frontage than specified herein jointly with another lot.
- (2) *Median openings.* Median openings shall be located in accordance with the major thoroughfare plan and other applicable ordinances. If direct access to a median opening is not available, lots shall have indirect access through a mutual access easement between adjacent properties. Such mutual access shall be indicated on the plat whenever possible.

8. *Site plan approval.*

- (a) *Required for certain nonresidential development.* Development of a lot with other than a residential use in any zoning district except the C-3, Commercial, LI, Light Industrial, HI, Heavy Industrial, or IP-1, Industrial Park Districts shall be subject to site plan review and approval in accordance with Title XI, Chapter 10, of the Midland City Code. No lot shall be developed with any nonresidential use and no building permit shall be issued for development of said lot until a site plan for its development has been approved. The development of any lot subject to site plan approval shall conform to the approved site plan, which may only be amended according to the procedures specified in Section 11-10-2(H)(3).
- (b) *Reference on plat.* All subdivision plats submitted for final approval after October 1, 2006 shall include on the face of the plat the following note: "Approval of a site plan by the City of Midland may be required before these lot(s) may be developed and before a building permit may be obtained."

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9. *Soil preservation and final grading.* Topsoil shall not be removed from the area of the plat, except according to a plan approved by the City engineer, which plan shall be consistent with an objective of conserving topsoil to support vegetation growth. Unless determined by the City engineer to be impractical, at least ten centimeters (4 inches) of topsoil shall be provided as cover on all lots, parkway areas, median areas, parks, drainage basins, and all other common areas and public sites.
 10. *Minimum lot elevations.* Minimum lot elevations shall be established as follows:
 - (a) Lots abutting a natural or excavated channel shall have a minimum finished grade elevation at or above the 100-year design elevation or base flood elevation as shown on the FIRM maps, or as directed by the City engineer.
 - (b) Where lots are located in or adjacent to a floodplain, the finished grade of the lot shall be constructed at or above the base flood elevation. The lot shall be graded so that there will be positive drainage away from the slab.
 11. *Debris and waste.* No cut trees, timber, debris, large rocks or stones, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street, at the time of final acceptance by the City engineer, and removal of those items and materials shall be required prior to such acceptance. No items and materials as herein described shall be left or deposited in any area of the subdivision at the time of expiration of any improvement agreement or acceptance of dedication of public improvements, whichever is sooner; however, dirt or topsoil may be stockpiled on a property at a location approved by the City engineer.

(C) *Streets and alleys.*

1. *Adequacy of streets and alleys.* All streets and alleys shall be designed and platted in conformance with the major thoroughfare plan, comprehensive plan and other pertinent ordinances and policies of the City of Midland. Access to the subdivision and to all lots therein must be suitably improved or secured in accordance with these regulations prior to final plat approval. The developer shall be responsible for the dedication and improvement of all such streets and thoroughfares, subject to participation by other property owners utilizing the facilities and subject to participation by the City, where funds are available, in accordance with these regulations. In circumstances where such participation is not feasible, the regulations herein stated shall be considered minimum requirements of plat approval.
2. *Street dedications and reservations.*
 - (a) *Dedication of right-of-way.* The property owner shall provide all right-of-way required for existing or future streets, including perimeter streets, as shown on the major thoroughfare plan and other applicable development plans approved by the commission or Council. Standard right-of-way widths for city streets are as specifically set forth on the major thoroughfare plan. In the case of perimeter streets, the total required right-of-way for such streets shall be provided except that one-half the width of a perimeter arterial street with a total required width of 25 meters (80 feet) or more generally shall be dedicated; however, in some instances more than half shall be required depending on the actual or proposed alignment of the street. Dedication of additional right-of-way beyond those widths specified in the major thoroughfare plan may be required at approaches to intersections, where right turn lanes are needed or, in other special circumstances, as designated by the City engineer.
 - (b) *Special collector street rights-of-way.* Where a type E secondary collector street, as described in Section 11-2-5(C)3, intersects an arterial street and is anticipated to continue across the arterial street, dedication of right-of-way of 20 meters (70 feet) in width shall be required for a distance of 60 meters (200 feet) from the point of intersection of the collector and arterial streets.
 - (c) *Perimeter streets.* Where the proposed subdivision abuts an existing half street, the property owner shall dedicate the right-of-way for the other half of the street. Where the proposed

subdivision abuts a new street designated on the major thoroughfare plan, the property owner shall dedicate the full right-of-way designated in the chart found in Section 11-2-5(C)3(b), except as provided otherwise in Section 11-2-5(C)2(a).

- (d) *Slope easements.* The dedication of easements, in addition to dedicated rights-of-way, shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three feet horizontal to one foot vertical.

3. *Design and improvement standards.*

- (a) *General.* In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, sanitation, and street maintenance equipment, and to coordinate streets so as to comprise a convenient system and avoid undue hardships to adjoining properties, an adequate street and thoroughfare system within and abutting the subdivision and providing access thereto shall be designed and improved in accordance with the standards set forth in these regulations, together with those contained in the major thoroughfare plan, the comprehensive plan and the City of Midland standard specifications, as adopted or amended from time to time by the Council. In the event of a conflict between the standards and regulations set forth in this Chapter and those contained in such documents, the more specific and/or restrictive provisions shall be applied. Paving and other improvements are subject to the participation policies stated in Section 11-2-6.
- (b) *Street improvements and paving standards.* After wastewater and water utilities have been installed by the property owner, all streets and thoroughfares shall be improved and paved to the width as stated in the table appearing at the end of this subsection (b). The width of pavement designated below is that between curbs back-to-back. Streets (including sidewalks) which are intended for future extension across power lines, railroads, or similar rights-of-way shall be constructed in the full right-of-way as required by the major thoroughfare plan for half the distance across such right-of-way for each side. The minimum right-of-way, the number of lanes and paving widths for the various types of streets shall be as follows:

Classification	Type	R.O.W	Lanes/Paving
Expressway or freeway	AA	60m (200'+)	Variable
Primary arterial	A	36m (120')	7—28m (93') [4]
Secondary arterial	A	36m (120')	5—20m (68') [4]
Primary arterial	B	30m (100')	7—26m (86') [4]
Secondary arterial	B	30m (100')	5—20m (68') [4]
Secondary arterial	C	25m (80')	5—20m (66') [4]
Primary collector	D-1	25m (80') [1]	5—20m (66') [4]
Primary collector; local (NS-, LR-, C-, O-, LI, HI, IP-) [2]	D-2	20m (70')	4—15m (51')
Secondary collector; local (school and MF-) [2]	E	18m (60') [3]	4—12m (41') [3]
Local (park, TH, 2F) [2]	F	18m (60')	2—11m (37')
Local (IF-, MH) [2]	G	15m (50')	2—9m (30')
Local (AE, CE) [2]	H	15m (50')	2—9m (30')
Marginal access	I	12m (40')	2—9m (30')

Notes:

- [1] Where left turn lane is required.

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- [2] Least restrictive or most intensive zoning district abutting a particular section of street. Requirement for a street which abuts a planned district shall be based on the zoning district to which the planned district zoning most closely conforms. Outside city limits, rights-of-way and paving requirements for collector and local streets serving nonresidential subdivisions shall conform to type D-2 of this table.
- [3] Right-of-way of 20 meters (70 feet) and improvement of four lanes to a width of 15 meters (51 feet) shall be required where the type E secondary collector intersects an arterial street, for a distance of 60 meters (200 feet) from the intersection of the streets, in circumstances where the collector street is to be extended across the arterial street.
- [4] Includes a left turn lane.
- (c) *Specifications.* All street pavement, drainage improvements and structures, turnarounds, and sidewalks where applicable shall conform to all construction standards and specifications contained or referenced in these regulations and shall be incorporated into the development and construction plans required for plat approval. Specific design standards are incorporated in the major thoroughfare plan and the City of Midland standard specifications. Concrete paving of the invert is required for a minimum width of 2.5 meters (8 feet) on all inverted crown streets.
- (d) *Obligations of subdividers and city participation.* The obligation of a subdivider to improve the right-of-way for all streets and thoroughfares serving a development is subject to the following policies:
- (1) When the proposed subdivision abuts or will abut one or both sides of a substandard street, or where a street does not exist but is identified as a proposed street on the major thoroughfare plan, or is required to serve the subdivision according to the standards specified in this Chapter, the subdivider will be required to improve the substandard street or proposed street to meet the standards set forth in Section 11-2-5(C)3(b). Where the width of available right-of-way, including right-of-way that the developer is responsible to dedicate as specified in Section 11-2-5(C)2, is not sufficient for the full pavement width required, the developer shall be responsible for whatever lesser pavement width that the City determines practical within the limitation of the right-of-way.
 - (2) The City may participate in the cost of improvements in accordance with the policies set forth in Section 11-2-6 of these regulations.
- (e) *Median openings.* Median openings, median pavers and left turn lanes, including channelizing buttons, constructed to serve dedicated streets in a development, or to serve private drives, shall be installed and paved to city standards by the owner.
- (f) *Acceleration and deceleration lanes.* Acceleration, deceleration, and right turn lanes shall be installed by the owner along arterial streets, including freeway frontage roads, as follows:
- (1) At all approaches to other arterial streets and at major driveways to all tracts which are subject to site plan review as provided herein, except when determined unnecessary by the director; and
 - (2) At all other street intersections when required by the director.
- Such lanes shall be constructed to the same standards as the adjoining street. The width of such additional lanes shall be not less than three meters (10 feet), and shall be greater when required.
- (g) *Gradient.* Streets and alleys shall be designed with a minimum gradient of 0.2 percent and a maximum gradient of 10.0 percent unless otherwise approved by the City engineer.

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- (h) *Reserve strips.* The creation of reserve strips shall not be permitted in such a manner as to deny access from adjacent property to any street, alley, public easement or other public facility.
- (i) *Grading and improvement plan.* Streets shall be graded and improved in conformance with the City of Midland standard specifications 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.
- (j) *Topography and arrangement.* Streets shall be related appropriately to the topography. All streets shall be arranged so as to obtain building sites 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.
- (k) *Intersections.* The intersection of more than two streets at one point shall be avoided except where it is otherwise impractical to secure an adequate street system. Streets shall intersect one another at, or as near to, right angles as possible. A corner cut-back shall be provided at each corner of all street intersections. The minimum length of the cut-back along each street right-of-way line shall be dependent on the radius of the curb or edge of the street pavement at that corner, according to the approved street improvement plans. The cut-back along each street shall begin no closer to the intersection than the point of curvature of the curb or edge radius, so that the full parkway width is maintained. The cut-back shall not be less than three meters (10 feet) along each right-of-way line of any street. Plats shall be subject to change after approval of the preliminary plat to conform to this provision and to approved street improvement plans. Street jogs with centerline offsets of less than 40 meters (130 feet), or 80 meters (270 feet) between collector streets, shall be avoided. Centerline distances between offset streets shall be shown on preliminary plats. Concrete valley gutters are required when intersection grades are less than 1.0 percent.
- (l) *Alignment.* Horizontal curves shall be designed for a travel speed not less than the following, without the need for super-elevation:
- (1) Local streets: 50 kilometers (30 miles) per hour.
 - (2) Collector streets: 55 kilometers (35 miles) per hour.
 - (3) Arterial streets: 75 kilometers (45 miles) per hour.
- A tangent at least 30 meters (100 feet) long shall be introduced between reverse curves. When connecting street lines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 30 meters (100 feet) for minor streets, and of such greater distance as the commission shall determine for arterial and collector streets.
- (m) *Marginal access streets.* Where a subdivision abuts or contains an arterial street, the commission may require marginal access streets or other such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (n) *Abutting railroad or limited access highway.* Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the commission may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (o) *Continuity.* The arrangement of streets in new subdivisions shall make provision for the continuation of the existing streets in adjoining areas, including a reasonable number of collector

streets aligned across arterial streets. Where adjoining areas are not subdivided, the street arrangement shall provide for the proper projection of principal streets which shall be carried to the boundaries of the tract proposed to be subdivided. In general, the street system shall provide for the normal circulation of traffic with adequate spacing and continuity of streets to perform their functions, but collector and minor streets shall not be so long as to encourage through traffic. Streets serving all one- and two-family zoned areas of a neighborhood shall connect to the neighborhood collector street system for access to schools, parks and other community facilities.

- (p) *Street names.* The names of proposed streets shall conform to the names of existing streets of which they are or may become extensions, but shall not otherwise duplicate or conflict with the recognized names of any other streets located in the area subject to these regulations and shall be consistent with the standards of street addressing. Street names shall not be dependent upon such typical endings as "street," "drive," "lane" and "court" to be distinguished from other street names. The base name of a street, not including such endings, shall not exceed 20 characters, including spaces between words in a multiple-word name. All street names shall be subject to approval by the commission and/or Council.
- (q) *Cul-de-sac streets.*
- (1) Turnarounds shall have a minimum right-of-way radius of 15 meters (50 feet) for single-family use and 18 meters (60 feet) for apartment, commercial or other uses.
 - (2) Maximum length of a cul-de-sac street shall be:
 - a. Two hundred meters (650 feet) for single-family development.
 - b. One hundred twenty-five meters (400 feet) for townhouse, two-family, multifamily and commercial developments.
 - (3) Shall not terminate at, or near, alleys at rear lot lines.
 - (4) Temporary turnarounds, conforming to the minimum radii requirements of (1) above, are to be used at the end of a dead-end section of a street more than 60 meters (200 feet) long which will be extended in the future. (The following note shall be provided on the final plat when a temporary turnaround is used: "Cross-hatched area is temporary easement for turnaround until street is extended by an accepted street dedication.")
- (r) *Partial or half streets.*
- (1) Partial or half streets, except arterial streets along property lines, shall not be permitted except where the commission determines, due to the established or proposed pattern of streets within an area, that a street located within the interior of a subdivision would not provide suitable access and circulation within the general area, and that a street should be located on a property line for maximum public benefit.
 - (2) Whenever a partial or half street has already been provided adjacent to a tract to be subdivided, the remaining half or width necessary to meet the minimum requirements for full right-of-way shall be platted within such subdivision.
 - (3) The general development plan of an entire subdivision may show a half street along adjoining property which has not been subdivided, if warranted, but no lot abutting upon such half street shall be included in the final plat until the complete street dedication is provided.
- (s) *Alleys.*
- (1) *Where required.* Alleys shall be provided in all use districts, except for the AE, Agriculture Estate District, and the CE, Country Estate District, and except that the commission, or the

Council where its approval is required, may waive this requirement where other definite provision is made for service access.

- (2) *Width.* The right-of-way of an alley shall be six meters (20 feet) wide where it serves residential lots only and nine meters (30 feet) wide for other lots or where the commission determines that the service access needs of the development require a greater width.
- (3) *Other requirements.* Dead-end alleys shall not be permitted. Where two alleys intersect, a cutoff of not less than six meters (20 feet) measured in both directions from the intersection point of the alley lines shall be provided. Alley alignment shall be consistent with economical design of utilities to be placed within such alley.
- (4) *Intersections with arterial streets.* Where an alley intersects an arterial street, said alley shall end at another crossing alley, or shall turn not less than 75 degrees prior to its intersection with another street, or, if continuous from arterial street to local or collector street, shall not continue across said local or collector street in a direct alignment.
- (5) *Access to alleys.* Automobile and truck access to any alley, and any connecting alleys within the same block, from garages, carports or other parking places on adjoining lots or tracts platted pursuant to an application for final plat filed with the City after June 30, 1994, shall be prohibited if either of the following conditions exists:
 - a. If the connected alley system exceeds 300 meters (1,000 feet) in length; or
 - b. If the connected alley system intersects an arterial street and:
 - (1) Exceeds 150 meters (480 feet) adjacent to a 1F-1 or lower density residential zoning district; or
 - (2) Exceeds 100 meters (330 feet) adjacent to any other district or adjacent to an area outside the City.

The following statement shall be placed on applicable plats filed for approval after said date: "Lots abutting on the alleys as indicated hereon (by cross-hatching) shall not have direct automobile or truck access to said alleys."

- (6) Alleys shall be improved according to the City of Midland standard specifications. For any residential lot final platted after June 30, 1994, or any commercial lot, an alley shall not provide access to vehicle garages, carports, or parking areas or business loading areas unless it has been constructed with a paved surface, conforming to said standard specifications, to an appropriate point of access to the street system as determined by the City engineer. Alley systems which will convey drainage that exceeds the local alley drainage area within the block will be required to have concrete curbs and gutters. The City engineer may also require a concrete valley gutter in these drainage alley inverts.
- (t) *Street name and traffic control signs.*
- (1) *Sign requirement.* Traffic control signs shall be installed at all intersecting public streets, as needed, and street name signs shall be installed at all intersecting public streets and private streets which have been named on an approved subdivision plat or as approved by the Council. Intersections created by streets within a subdivision that intersect perimeter streets shall also be considered intersections within a subdivision.
 - (2) *Cost participation.* The developer shall share in the initial cost of sign installations to the extent of the required deposit per intersection within a subdivision.

The cost per intersection shall be determined annually by the department of engineering and development and shall be based on prevailing costs of materials and labor for the complete sign, support, and installation.

(3) *Engineering and installation.* In order to remain uniform and consistent with materials and workmanship throughout the City, the department of engineering and development shall prepare, locate and install all signs for public streets within the City. The signs will be installed by the City when street construction has met final approval.

(4) *Financial arrangements.* The developer shall deposit with the City:

- a. A fixed sum of money based on the number of intersections within the subdivision development.
- b. If the developer deposits cash funds with the City at the time of completion of a development agreement or filing of a public improvement guarantee, the cost of signs will be at the rate prevailing at that time. If the developer elects to wait until the time when signs are to be installed, the cost of signs will be at the rate prevailing at the time the developer deposits the money with the City.

(u) *Streetlights.* Installation of streetlights shall be in accordance with design and specification standards of the City. The developer shall be responsible for the installation and cost of such street lighting.

4. *Subdivision access.* All platted lots must have safe and adequate street access for daily use and emergency purposes.

(a) *External access.* Except for lots which are provided access from an approved cul-de-sac, all subdivisions must have two means of access or approach. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may accept a temporary street connection, a median divided street or entry to satisfy this requirement.

(b) *Approach roads.* All subdivisions must be connected to the City's improved thoroughfare and street system by one or more approach roads. The developer shall be responsible for the dedication and improvement of approach roads to a standard not less than that specified by Section 11-2-5(C)3 for a local street in an area zoned as an AE District. Structural standards for construction shall be those required for the future classification specified for the road according to the major thoroughfare plan, collector street plans, or the capital improvements program. The road shall be constructed in a manner conducive to widening and installation of curbs and gutters in the future. Interim street drainage shall be accommodated by roadside ditch systems. Requirements for dedication of right-of-way and improvement of approach roads may be increased, depending on the density or intensity of the proposed subdivision. The subdivider's share of the costs and the City's participation in the costs of improvements shall be subject to the policies set forth in Section 11-2-6. In instances where several subdivisions are pending, which will take access from or abut the approach road, the requirements for cost-sharing and City participation may be jointly considered by the Council in order to equitably apportion the costs of improvements.

(D) *Drainage, storm sewers and lake areas.*

1. *General requirements.* All drainage design shall conform to the City's storm drainage design manual.
2. *Design of facilities.*

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- (a) *Standards.* Design of storm sewer systems shall be in accordance with the storm drainage design manual. Materials and construction shall conform to the City of Midland standard specifications. Plans shall be submitted with the plat.
 - (b) *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 owner's engineer shall initially determine the necessary size of the facility, based on the criteria of the City of Midland storm drainage design manual, assuming conditions of maximum potential watershed development anticipated by the comprehensive plan or permitted by the zoning code, whichever is greater, and subject to approval by the City engineer.
 - (c) *Effect on downstream drainage areas.* The owner's engineer, subject to approval by the City engineer, shall study the effect of each addition's storm runoff on the existing drainage facilities immediately downstream of the addition. Where it is determined that existing capacity is not available immediately downstream, the owner's engineer shall design a drainage system, detention facility, or parallel system to mitigate the deficiency. The commission may withhold approval of the plat until public improvement plans for such mitigation have been approved. If oversize improvements are required, the City may participate in the cost as prescribed by this Code.
 - (d) *Ponding facilities.* Lakes, detention ponds, and retention ponds may be constructed in all areas provided they conform to the City's adopted drainage plans and are approved by the City engineer. Areas to be dedicated as public land for stormwater drainage and impoundment shall be designated on plats or referenced in the dedication deed as "stormwater drainage and impoundment" and shall be designated by a special tract number or letter. Plans for improvements to such areas shall conform to the City of Midland standard specifications and shall be subject to approval by the City engineer along with other elements of the public improvement plans. Common areas which will serve drainage purposes shall be subject to dedication of drainage easements as determined by the City engineer and conforming to the requirements of paragraph 5 below.
 - (e) *Alternate facilities.* Other innovative drainage concepts will be considered if approved by the City engineer.
3. *Draws and floodplains.*
- (a) *General requirements.* The following requirements shall be satisfied by any subdivision which abuts or includes any drainageway or floodplain, whether a major draw or a minor drainageway as described below:
 - (1) *Public ownership or easement.* Draws or drainageways may be required to be dedicated to the City. In the event the City decides not to require public ownership, the property containing the draw or drainageway shall be subject to the dedication of a drainage and maintenance easement that substantially conforms to the alignment of such watercourse. Said easement shall be of sufficient width to contain floodwaters and allow for maintenance and construction equipment and shall conform to the requirements of paragraph 5, below.
 - (2) *Access easements.* The property owner must provide sufficient access on each side of and parallel to draws or drainageways for maintenance purposes. The access shall be at or above the base flood elevation and accessible to vehicles and equipment. Access must also be provided at a maximum 400-meter (1,300-foot) spacing along streets or alleys. Access easements located and sized as determined by the City engineer shall be dedicated

according to the requirements of paragraph 5, below. The minimum width of the access easement shall be six meters (20 feet).

- (b) *Regulatory floodplains and major draws.* Development of all regulatory floodplains shall conform to Title XI, Chapter 3, "Flood Hazard Areas." Areas within the jurisdiction of the City subject to flood conditions as established by the City engineer will not be considered for subdivision purposes until adequate drainage has been provided, as determined by the director. Development along the Midland, Jal, Monahans and Scharbauer Draws shall conform to the following requirements:
- (1) *Fully developed watershed.* Base flood elevation (BFE) and floodplain used for design and planning shall be evaluated upon total stormwater discharge quantities that will, through future urbanization, be generated from a fully developed watershed, consistent with any watershed drainage plan adopted by the City.
 - (2) *Floodplain reclamation.* Reclamation of a portion of the floodplain may be permitted only if it can be demonstrated that there will be no rise in the BFE or increase in peak stream flow or stream velocity.
 - (3) *Alteration or channelization.* Any alteration or channelization shall conform to the City's comprehensive drainage plan or be approved by the City engineer and shall provide for safety and public welfare and for adequate width for maximum potential volume of flow under a fully developed watershed condition. The floodway shall be left in a natural state, with landscaped banks, where possible, to control erosion velocities, prevent excessive downstream discharges, and preserve the natural characteristics of the stream.
 - (4) *Buffer zones.* Parallel roadways, greenbelts, etc., shall be required along the draw corridor to assure access and to create a buffer zone between the floodplain and development.
- (c) *Minor drainageways.* All other draws, natural or manmade drainways, etc., as determined by the City engineer which are not considered major draws as defined in subparagraph (b) above, but which are necessary to allow drainage from one tract of land to another, shall be classified as minor drainageways.
- (1) *Location of drainage facilities, nonresidential development.* Site drainage facilities are required to be placed underground in nonresidential zoning districts, when an outfall is reasonably available.
 - (2) *Location of drainage facilities, residential development.* Drainage facilities may be placed underground or in an open channel in residential zoning districts. If placed in an open channel, the City engineer may require a pilot channel or channel lining as outlined in the City of Midland storm drainage design manual. Subject to the approval of the City engineer, the drainage plan for a subdivision may provide for stormwater runoff to be carried above ground in streets or alleys. The amount of stormwater to be carried above ground in streets or alleys shall be limited as specified in the storm drainage design manual. Where approved as part of a subdivision drainage plan, stormwater runoff to be carried in collector or local streets may be discharged across an arterial street, but shall not be carried along an arterial street except underground or in an open channel separate from the street pavement.
 - (3) Where topography or other conditions make the inclusion of drainage facilities within street rights-of-way impractical, perpetual unobstructed easements shall be provided for drainage facilities. Said easements shall be of sufficient width to accommodate the drainage facilities, and shall be located across property outside the street lines and with satisfactory access to the street. Easements shall be indicated on the plat and shall conform

to the requirements of paragraph 5, below. Drainage easements shall extend from the street to a natural watercourse or other drainage facilities, as required in the City of Midland storm drainage design manual.

- (4) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage easements must be secured by the developer.
4. *Lake areas.* In order to promote the general health, safety and welfare, the City may require dedication of lake areas for stormwater drainage and impoundment areas necessary for flood control and preservation of natural drainage in accordance with the following policies:
- (a) If the subdivider proposes to include any lake areas within lots or parcels within the subdivision for private use, he shall submit a reclamation plan for approval according to Section 11-4-14 hereof prior to said area being included.
 - (b) All land which is not either to be reclaimed and included within lots or parcels for private use or to be included within common areas pursuant to the approved reclamation plan shall be dedicated to the public for stormwater drainage and impoundment. All areas to be held in common are subject to the requirements of Section 11-2-5(K).
 - (c) No lot or tract adjacent to or within a lake area or on a bordering street may be final platted until such lake area, or the portion thereof adjacent to said lot or tract, required for drainage has been final platted and dedicated as described herein, along with dedication of stormwater storage and drainage easements as shall be required by the City engineer.
 - (d) The dedication of the lake areas for stormwater drainage and impoundment areas shall not prohibit the use of such area for public uses, so long as the impoundment and drainage capacity are not diminished by such use or, in the event such capacity is diminished, adequate alternative drainage or impoundment areas of similar capacity are provided.
5. *Dedication of drainage easements.*
- (a) *General requirements.* The developer shall provide drainage easements, whether required within or outside the boundaries of the subdivision, as determined by the City engineer to be necessary to accommodate the stormwater runoff from the subdivision. In addition, when a subdivision is or will be traversed by, or is bounded by, a watercourse, drainageway, channel, or draw, or is encumbered by a lake area, there shall be provided a stormwater drainage easement conforming substantially to the alignment of such watercourse or the area of such lake, and of such width or extent as will be adequate for such purpose.
 - (b) *Condition concerning easements.* In areas where public ownership of drainways or ponding areas is not required, drainage easements to preserve such areas for drainage purposes and to permit access and maintenance, and improvements as appropriate, shall be provided. Easements, whether separate or included, shall be provided for adequate accessibility at or above the base flood elevation by vehicles and equipment. Access easements shall have a minimum width of six meters (20 feet) and their common boundaries with private properties shall be marked with permanent monuments, the type and locations to be determined by the City engineer. Property owners shall be responsible for maintaining all areas of their properties which are subject to drainage easements. Some drainageways or ponding areas, including those which occupy common areas, may require a separate maintenance entity. A maintenance entity's bylaws and covenants filed of record, if applicable, shall provide for ongoing maintenance and shall authorize a lien against individual lots in favor of the City to secure the payment to the City for any expenses incurred by the City in the event of default of maintenance responsibilities by the entity.

The maintenance entity shall be responsible for all property within the easements or common areas. The City shall have the right, but not the obligation, to maintain and construct drainage facilities if, in the City's sole opinion, the property owners or maintenance entity is not properly maintaining the drainageway or ponding area.

6. *Special flood hazard areas.* The following additional conditions shall apply to any subdivision (including any manufactured home subdivision or any containing or intended to contain a manufactured home park) developed wholly or partially within any area of a special flood hazard as defined in this Title:
 - (a) Shall be consistent with Sections 11-3-2 and 11-3-6.
 - (b) Shall meet the development permit requirements of Sections 11-3-4, 11-3-5(C), and 11-3-12.
 - (c) Base flood elevation data shall be generated for any subdivision which is greater than 50 lots or two hectares (5 acres), whichever is less, if not otherwise available on a flood hazard boundary map (FHBM) by the Federal Emergency Management Agency or otherwise provided pursuant to Section 11-3-5(B)8.
 - (d) The boundaries of the 100-year floodplain and floodway, as applicable, shall be clearly shown on the plat.
 - (e) The following note shall be placed on the plat: "The boundaries of the 100-year floodplain (and floodway) [include if applicable] as shown hereon are as designated by _____ [insert reference], dated _____ [insert date of document], and are subject to change. Current information regarding flood hazard areas, including the minimum slab or floor elevation required for construction on any lot located wholly or partly within the 100-year floodplain, may be obtained from the City of Midland. Before any development (including fill, channel modification, etc.) proceeds on any land encumbered by the 100-year floodplain, or within any drainageway or basin, a development permit application must be filed at the City of Midland."
7. *Grading.* Site, street and development grading shall conform to the specifications in the City of Midland storm drainage design manual.

(E) *Water facilities.*

1. *Adequate water facilities.* Except as provided in Section 11-2-5(A), water systems serving any subdivision within the City or within its extraterritorial jurisdiction shall be served by an approved water supply and distribution system. Water facilities shall be installed to adequately serve each lot and shall be sized to conform to the City's water distribution master plan and other requirements of the City. Water service to each lot included on the final plat shall be from a looped water main. In addition, the water supply to the subdivision as a whole shall be based on a plan for an area-wide looped system of trunk lines which will supply water flow from two directions or sources. The required public improvements for the subdivision shall include all lines within or adjacent to the subdivision which are needed to conform to the City's plans for the area-wide trunk system. When so determined by the City, the public improvements shall also include off-site line extensions to complete that part of the trunk system necessary to supply water flow to the subdivision from two directions or sources. The City may require owners to provide adequate engineering data to support water demand projections before final plans will be approved. No building permit shall be issued and no development shall be approved unless adequate assurances are provided that the development shall be connected with the approved water supply and distribution system. No building permit shall be issued until satisfactory evidence of such connection has been provided, as determined by the City engineer.
2. *Design and construction requirements.* The developer shall construct all water facilities needed to serve the development. Design of water systems shall be in accordance with the City of Midland standard specifications. No water system will be constructed unless all plans have been reviewed and approved

by the City to assure compliance with these requirements. All design and construction will be done under the inspection of the City and in accordance with established city policies and practices.

3. *Extension policy.* The developer shall provide for the extension of all water mains and appurtenances, including major distribution facilities, necessary to connect the development with the approved water supply and distribution system. Authority to extend water mains to serve newly subdivided or platted land shall be granted by the City only upon a determination by the director of utilities that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of occupancy permits for structures developed on such land. The developer shall pay all pro rata fees due prior to final plat approval.
4. *Fire protection.* Water service must be sufficient to meet fire flow requirements of the proposed development for domestic and industrial purposes, except where a suitable alternative means of fire protection is approved by the City. Fire hydrant spacing shall be based upon distance along hose-laying routes, measured along rights-of-way accessible to fire trucks, and shall be a maximum of 90 meters (300 feet) for nonresidential zoned and multiple-family residential zoned and 200 meters (650 feet) for other residential zoned areas. Where a water line is installed along a cul-de-sac street, fire hydrants shall be placed so that no lot shall be a greater distance from a fire hydrant than one-half the maximum specified hydrant spacing.

(F) *Wastewater facilities.*

1. *Adequate wastewater facilities.* Except as provided in Section 11-2-5(A), all subdivisions within the City or within its extraterritorial jurisdiction shall be served by an approved wastewater collection and disposal system. Wastewater collection and disposal systems shall be installed to adequately serve each lot and shall be designed accordingly. All additions to the City's wastewater system shall conform to the City's master sewer plan and other requirements of the City. The City may require adequate engineering data to support projected sewer flows before final plan approval. The proposed wastewater discharge of a proposed development shall not exceed the capacity of the wastewater system based upon required studies. No development shall be approved unless adequate assurances have been provided that such development will be connected with the approved wastewater collection and disposal system. No building permits shall be issued until satisfactory evidence of such connection has been provided, as determined by the City engineer.
2. *Design and construction requirements.* The developer shall construct all wastewater collection and disposal facilities needed to serve the development. Design of wastewater facilities shall be in accordance with the City of Midland standard specifications. No wastewater system shall be constructed unless all plans have been reviewed and approved by the City to assure compliance with these requirements. All design and construction will be done under the inspection of the City and in accordance with established city policies and practices.
3. *Extension policy.* The developer shall provide for the extension of all wastewater mains and appurtenances, including major collection and disposal facilities, necessary to connect the development with the approved wastewater collection and disposal system. Authority to extend wastewater mains to serve newly subdivided or platted land shall be granted by the City only upon a determination by the director of utilities that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of occupancy permits for structures developed on such land. The developer shall pay all pro rata fees due for wastewater mains prior to final plat approval for the property.
4. *On-site treatment.* On-site wastewater treatment systems will not be permitted, except for the pretreatment of industrial waste. In such instances, plans must be submitted to the director of utilities for approval prior to construction of the facilities.

(G) *Water and wastewater main extensions.*

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1. *Responsibility for installation and extension.* The developer shall construct all water and wastewater facilities needed to serve the development and, pursuant to a development agreement with the City, shall construct or finance all water and wastewater mains and appurtenances, including major distribution and collection facilities, necessary to connect the development with the City's water supply and distribution system and the City's wastewater system. Mains to be extended shall be of a size sufficient to serve the development and all other properties to be served by the facility, as determined from an analysis of the City's water distribution master plans, sanitary sewer master plan and capital improvement program, as may be amended from time to time. All costs of installation shall be initially borne by the developer, subject to city participation in oversize costs pursuant to Section 11-2-6 and subject to reimbursement from other developments. Requests for city extension of water and wastewater mains shall be as provided for in Section 11-2-5(G)7.
 2. *Condition of main extension.* Authority to extend water and wastewater mains to serve the subdivision shall be granted by the City only upon a determination by the director that all water or wastewater facilities necessary to adequately serve the development are in place or will be in place prior to issuance of the occupancy permits for structures developed on such land.
 3. *Minimum standards.* Water and wastewater mains shall be installed and extended in accordance with the following standards:
 - (a) *Location of facilities.* The location of all water and wastewater mains necessary to serve newly subdivided or platted land shall be in accordance with the City's water distribution master plan, sanitary sewer master plan and capital improvement program, as may be amended from time to time, and in accordance with this Chapter.
 - (b) *Construction standards.* All water and wastewater facilities required by these regulations shall be constructed in accordance with the requirements and specifications of the City.
 - (c) *Size of mains.* Water and wastewater mains shall be sized and designed in accordance with the City's water distribution master plan and sanitary sewer master plan.
 - (d) *Items included.* Mains to be constructed shall include all valves, manholes, piping, fire hydrants and other appurtenances, including any lift stations or pumping facilities necessary to connect the property with the City's water or wastewater system, as determined by the director.
 - (e) *Extensions within property to be developed.* All water and wastewater mains shall be extended through and/or across the frontage of the property to be developed in streets, alleys, or in easements to the tract or addition in order to provide service to adjacent property where applicable.
 - (f) *Acquisition of easements.* The developer must obtain all off-site easements which are necessary for extending water and wastewater mains to and through the property being developed. However, the City may acquire such easements, or portions thereof, if the Council determines such acquisition is in the public interest. A metes and bounds description and a drawing of each easement must be submitted to the engineering division in order for the proper legal document to be prepared. The document will be sent to the developer for acquisition of the required signatures. The executed document will be returned to the engineering division for filing with the county clerk.
 4. *Agreement required.* Prior to extension of any water main or wastewater main for which there is city participation in the project costs, or prior to construction of any main or appurtenances thereto which is identified in the capital improvements program for water or wastewater facilities, the developer shall execute a development agreement with the City in accordance with Section 11-2-4. In addition to matters contained therein, the following additional requirements apply:

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- (a) Construction plans approved by the director demonstrating compliance with all city standards and regulations.
 - (b) Appropriate provisions for providing security in a form approved by the City attorney.
 - (c) Offers to deliver to the City clear and unencumbered title to all proposed water or wastewater facilities prior to the time of acceptance by the City.
 - (d) Off-site easements necessary for the extension of water and wastewater mains.
 - (e) Designation of the proposed extent of the City's participation in construction costs and the sources of reimbursement from fees to be collected from other developments.
 - (f) Agreement to cooperate with city inspectors and to abide by all rules and regulations relating to city inspection.
 - (g) Agreement to maintain the facilities until such facilities are accepted by the City and a warranty that the facilities will be free from defect for a period of one year following the acceptance by the City of the dedication of the facility. This warranty obligation may be met by securing a warranty of the facility from the general contractor which is transferred to the City at the time of acceptance of the facility.
 - (h) When required by applicable Texas statute, an agreement to abide by the competitive bidding requirements and procedures set forth under Texas law.
5. *Construction management procedures.* Requirements for management of construction and inspection of facilities constructed shall be as provided in Section 11-2-4. The following additional requirements apply:
- (a) *Preconstruction conference.* The city engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work. If a conference is to be required, the City engineer shall notify the developer at or prior to the time that the public improvement plans are approved.
 - (b) *Conditions prior to authorization.* Prior to authorizing construction, the City engineer shall be satisfied that the following conditions have been met:
 - (1) All required contract documents shall be completed and filed with the City engineer.
 - (2) All necessary off-site easements or dedications required for city-maintained water or wastewater facilities, not shown on the final plat, must be conveyed solely to the City, with proper signatures affixed.
 - (3) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of approval of the engineering and development department. These plans shall remain available to the contractors on the job site.
 - (4) A complete list of the contractors, their representatives on the site and telephone numbers where a responsible party may be reached at all times must be submitted to the City engineer.
6. *City participation and reimbursement.* Standards and procedures for City participation in the costs of oversized water and wastewater mains and provisions for reimbursement to developers from pro rata fees shall be as provided in Section 11-2-6.
7. *Extension of mains by City.* The City may extend a water or wastewater main to serve a subdivision, in lieu of installation by the developer, subject to the following standards and procedures:

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- (a) *Request by developer.* The developer shall petition the City to extend a water or wastewater main to serve the development in lieu of constructing the facilities or to accelerate installation prior to the City's proposed construction schedule.
 - (b) *Condition of extension.* The City may agree to extend the water or wastewater main upon condition that the subdivider shall deposit cash in an amount equal to 100 percent of the projected costs of the extension, together with easements required by Section 11-2-5(G)3.
 - (c) *Participation by City.* The City shall participate in the costs of oversized mains according to the standards and procedures established in Section 11-2-6. Upon determination of the amount and timing of the City's participation thereunder, the portion of the cash deposit equal thereto shall be refunded to the developer.
 - (d) *Reimbursement from other developments.* The developer shall be entitled to reimbursement from the proceeds of pro rata fees established for the main or mains serving other developments pursuant to Section 11-2-6. The developer shall also be entitled to reimbursement from any lot or acreage fees which the City may hereafter impose on other developments to be served by the main or mains installed.

8. *Extensions to serve lots in partly developed areas.*

- (a) The City may extend a water or wastewater main to serve lots in partly developed areas, upon receiving in advance the total costs of such extension from owners of existing developed residential lots to be served by such main. Upon petition of such property owners, the City may establish pro rata fees for such line in the manner provided in Section 11-2-6, which fees shall be reimbursed to the owners who have made advance payments, upon connection of other property owners to the main.
- (b) Upon the request of the owner of a single-family residential lot, the City may extend, lay or construct all necessary water and/or wastewater mains, including necessary appurtenances, a maximum distance of 15 meters (50 feet), excluding street intersections. Only one such 15-meter (50-foot) extension on any one main extension will be made for any applicant during any 12-month period.
- (c) Property owners in partly developed areas may finance the construction of a water or wastewater main to serve their property, subject to city approval under the rules and regulations generally applicable to construction of such facilities by developers.

(H) *Utilities, general.*

1. *Easements.*

- (a) The property owner shall be required to furnish all easements and rights-of-way required to serve the development. Where reasonable, all public and franchised utilities should be located within street or alley rights-of-way. Notwithstanding the above, developers may offer easements outside of street and alley rights-of-way. All utility facilities existing and proposed throughout the property shall be shown on the preliminary plat and accompanying public improvement plans.
- (b) Easements shall be provided for both municipal and franchised utilities. Municipal easements for water, sanitary sewer and storm sewer shall be a minimum of 4.5 meters (15 feet) in width, except that easements that are located along common side lines between lots and are for the purpose of connecting facilities located in streets and alleys shall be not less than 3.5 meters (12 feet) in width. The full width of any easement located along the common line between lots shall be provided on one side of the lot line. All municipal easements shall be wider when a need is determined by the City engineer depending on the depth and the size of the utility. Franchised utility easements must be sized by the utility company. Proper coordination shall be established

among the City, the property owner and the applicable utility companies for the establishment of utility easements on adjoining properties. Easements shall be indicated on the plat.

- (c) When topographical or other conditions are such as to make impractical the inclusion of utilities within an alley, and an easement is provided instead at the rear of residential lots, perpetual unobstructed easements conforming to subparagraph (b) above shall be provided along selected side lot lines for satisfactory access to the street and the rear lot easements.
 - (d) *In areas adjoining proposed subdivision.* When the City engineer finds that easements in areas adjoining proposed subdivisions are necessary to serve such subdivision with utilities, the subdivider shall obtain such easements or shall make arrangements with the City to obtain them.
2. *Damage.* The contractor and owner shall be responsible for all damage to existing public improvements caused during construction of new public improvements.
- (I) *Public uses.*
- 1. *Reservation of land.* Sketch plats, preliminary plats and final plats shall reserve land which has not been dedicated for such use pursuant to these regulations or other provisions of the City Code for future public use, as designated in the comprehensive plan and associated plans for future public facilities and utilities. These uses include, but are not limited to: parks, recreation and open space areas, schools, libraries, police and fire stations, pump stations, water storage tanks, and lift stations. Land reserved shall be of a suitable size, dimension, topography, and character for the designated purpose.
 - 2. *Procedure for reserving land.* All sketch plats, preliminary plats and final plats shall provide for the necessary reservation of land for future public use, as required by the commission or Council. Boundaries of land reserved for public use may be adjusted subject to the approval of the commission or Council. The City, or other responsible public entity, shall initiate acquisition of any area reserved for public use on the final plat within 18 months of the date of approval of the final plat, unless the period is extended by mutual agreement of the City and the developer. The reservation shall be made void if the City, or other responsible public entity, fails to initiate acquisition of the area reserved within this period. In such event, the reserved area may be developed upon approval of a replat in accordance with Section 11-2-7, or development may proceed if the final plat has included the platting of the land reserved for public acquisition on a contingent basis.
- (J) *Provision of amenities.* Where amenities are owned and maintained by property owners in common or through an association of property owners, or where amenities are to be dedicated to the City and are to be maintained publicly or privately through agreement with the City, the City may require any or all of the following:
- 1. Plans and illustrations of the proposed amenities;
 - 2. Cost estimates of construction, maintenance and operating expenses;
 - 3. Association documents, deed restrictions, contracts and agreements pertaining to maintenance of the amenities, if appropriate; and
 - 4. Provision of surety as required for maintenance and other expenses related to the amenities, if appropriate.
- (K) *Common areas.* Where any area is retained under private ownership and is to be established for the common use or enjoyment or to serve a common need of a subdivision and the owners of lots therein, said area shall be established as a common area on the plat, and designated by a special common area number or letter. The plat shall be accompanied by the covenants or ownership agreements, providing for the perpetual ownership and maintenance of such area, which shall be submitted to and approved by the City attorney's office and the commission, and filed of record with the plat. All improvements to a common area which are required as a condition of plat approval and all sidewalks required by Section 4-1-4 of the building code along

streets abutting any common area shall be considered to be required subdivision improvements, subject to the requirements of Section 11-2-4 herein.

- (L) The following design policies, standards and specifications as they may be adopted, amended or revised from time to time are incorporated by reference into this ordinance and shall be considered as provisions of this ordinance as if fully set forth herein; provided, however, no such policies, standards, or specifications, nor any amendment or revisions thereto, shall have any effect until approved by resolution of the Council and the text of same be on file with the City secretary for five calendar days following the date of said approval:

City of Midland standard specifications.

Major thoroughfare plan.

Comprehensive plan.

Policy on driveway access and design.

Capital improvements program.

Storm drainage design manual.

Water distribution master plan.

Sanitary sewer master plan.

(Ord. No. 7333, § 1, 6-14-1994; Ord. No. 8388, §§ 1—3, 3-21-2006; Ord. No. 8447, § 4, 9-26-2006; Ord. No. 8790, § 1, 4-13-2010 ; Ord. No. 9307, § 1, 8-26-14)

11-2-6. Participation policies and pro rata fees.

(A) *Participation policies.*

1. *Developer's responsibility.*

- (a) The developer shall be responsible for the entire cost of designing and installing all public improvements which primarily serve the subdivision. Facilities required by these regulations, unless listed in Section 11-2-6(B), shall be considered as primarily serving the subdivision unless otherwise determined by the City.
- (b) The developer shall also be responsible for his share of the costs of oversized or off-site public improvements needed to assure adequacy of public facilities and services for the subdivision, subject to participation, escrow and reimbursement policies contained in this Section 11-2-6.
- (c) The developer shall be responsible for extending all streets, water, wastewater and drainage facilities to his property, as required by the commission or Council to ensure adequacy of public facilities.
- (d) Should the subdivision abut an existing water or wastewater line installed by someone other than the City, the developer shall pay to the City a pro rata charge to be refunded to the original installer of the line, as prescribed in Section 11-2-6(E) of these regulations.
- (e) Should a lift station, either temporary or permanent, be necessary to provide sanitary sewer service to the subdivision, the developer shall construct the station and all appurtenances at his own expense. If and when the lift station is no longer needed, the installation will, unless other provisions are made, remain the property of the City of Midland for reuse or disposal. A pro rata charge for such lift stations and appurtenances may be established as prescribed in Section 11-2-6(E).

2. *City's share of improvement costs.* The City may participate with the developer in the costs of public improvements which are not for the primary benefit of the development and which have been oversized to serve developments other than that for which the plat has been submitted for approval, in an amount not to exceed a maximum of 30 percent of the total construction costs of the public facilities set forth in the development agreement between the City and the developer, and pursuant to the procedures herein set forth. The agreement shall be consistent with the requirements of V.T.C.A., Local Government Code ch. 252, and V.T.C.A., Local Government Code §§ 212.071—212.074, inclusive, as amended. In the event that the City, in its sole discretion, determines to participate to an extent greater than 30 percent of total construction costs of the public facilities set forth in the development agreement, in order to preserve the public health and safety, or to prevent confiscation of property, the developer shall be responsible for compliance with all competitive bidding procedures required by the City and V.T.C.A., Local Government Code ch. 252.
 3. In no event may the City be required to participate in the costs of public facilities if the Council determines in its sole discretion that there are no funds available for such purposes.
- (B) *Facilities eligible for city participation.* The developer shall be responsible for the entire initial cost of installing public facilities, including oversizing. As funds become available, the City may participate at a maximum in the costs of installing public improvements according to the following schedule:
1. *Streets and thoroughfares.* The city's participation in the costs of improvements for perimeter and approach roads shall be computed following determination of the developer's responsibilities and those of abutting property owners. Internal subdivision streets, except arterial streets, are not eligible for city cost participation. The city's maximum share of improvement costs for perimeter and approach roads and for arterial streets is set forth in the following table, which designates the developer's and the City's share for various categories of streets. The costs of improvements which are eligible for city participation include those for construction, utility adjustments, excavation, subgrade preparation, pavement, crossovers, turn lanes, curbs and gutters. All other costs are the responsibility of the developer, except as provided otherwise herein. The city's participation in the costs of streets and thoroughfares applies only within the City limits. If an area zoned as a less restrictive or more intensive district than 1F, MH, TH, or 2F will be abutted by streets that the developer will improve on more than one side, the developer's share for the abutting section of street shall be determined by said zoning district, according to the table. If an area zoned as one of the less restrictive or more intensive districts will be abutted by only one street that the developer will improve, the developer's share for the zoning area shall be applicable to a length of the abutting roadway equal to the square root of the zoning area, regardless of the actual street frontage of the zoning area. The developer's share for the most restrictively or least intensively zoned area shall be applicable to the remainder of street frontage within or abutting the area of the plat after his share for all less restrictively or more intensively zoned areas has been applied.

CITY PARTICIPATION TABLE—STREETS
11-2-6(B)1

Street Class	R.O.W. Pavement	Adjacent Zoning	Developer's Share***	City's Share
Arterial	Various	C-, LI, HI, IP- or major concentration of LR-, O-, or MF-	½ cost of street, based on maximum 28-meter (93-foot) width including C & G, arterial construction standards	Remainder
Arterial	Various	NS, or neighborhood scale* concentration of LR-, O-, or MF-	½ cost of street, based on maximum 20-meter (68-foot) width including C & G, arterial construction standards	Remainder

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Arterial	Various	1F-, MH, TH, 2F	½cost of street, based on maximum 20-meter (68-foot) width including C & G, arterial construction standards	Remainder
Arterial	Various	AE or other with minimum residential lot area of 2,500 square meters (27,000 square feet) or greater	½cost of street, based on maximum 15-meter (51-foot) width, no C & G, arterial construction standards	Remainder
Collector or local	Various	AE or other with minimum residential lot area of 2,500 square meters (27,000 square feet) or greater	Full street to a maximum of 8-meter (26-foot) width, no C & G	Remainder
Collector or local	Various	All other	Full street	None
Collector**	Various	All other	Full street to a maximum of 10-meter (34-foot) width, including C & G one side	Remainder

*Neighborhood scale commercial: 3.0 hectares (7.5 acres) or less.

Neighborhood scale office: Limited to less than 10,000 square meters (100,000 square feet) of floor area.

**Applicable to an existing street only, where the subdivision neither creates the street nor extends its length.

***For each side of the road which the subdivision abuts.

2. *Water and wastewater.* If the request for city participation is approved by the Council, following dedication and acceptance of the facility or appurtenances in which it has agreed to participate, the City shall refund the costs of oversizing such facility in accordance with the following procedures and standards:
 - (a) *Oversizing standards.* The City shall pay the difference in the cost of materials between a "standard" size main (a 20-centimeter (8-inch) water main or a 25-centimeter (10-inch) wastewater main) and a larger size main required by the City, as determined under subparagraph (b) hereof, up to the maximum amount agreed to by the City.
 - (b) *Oversize cost determination.* The extent of the City's participation in the cost of oversized mains shall be determined in the following manner: Estimates of the actual costs of materials, which are provided by the developer's professional engineer along with an estimate of the City participation, according to the policies stated herein, shall be submitted to the director for his review and approval. The approved estimates shall be set forth in the development agreement between the developer and the City, including an estimate of the City's portion. However, the City's participation shall be based on actual bid between the "standard" size main and the oversize main. The developer's engineer shall include the "standard" size main in the base bid with the oversize as an alternate and shall provide for separate unit price bids for labor and materials. All bids received by the developer shall be provided to the City engineer for review and approval. The City has the right to reject any and all bids in which it is participating. In no event shall the City's participation exceed the City's portion of the construction costs set forth in the development agreement, or as may be subsequently amended.

(c) *Participation in costs of construction other than materials.* The Council may, in its sole discretion, agree to participate in costs related to water and wastewater main extensions other than the costs determined under subparagraph (b), above, upon a determination by the Council that:

- (1) The size of the water or wastewater line required by the City to be constructed by the developer is necessary for the public health, safety and welfare; and
- (2) The difference in the cost of constructing the oversized line excluding materials costs is so significant over the cost of the standard line as to create an undue and inequitable burden on the developer relative to the benefit the developer's subdivision will receive from use of the oversized line.

3. *Drainage facilities.* The developer is required to provide all drainage facilities and appurtenances necessary to conduct stormwater runoff through or along the boundary of his subdivision and all drainage facilities and appurtenances, whether within or outside the boundaries of his subdivision, that are required to conduct stormwater runoff from the subdivision. This includes underground and/or open channel facilities, and detention or retention basins, as well as any required off-site drainage facilities for stormwater runoff from the subdivision. A subdivision which contains a major drainageway and/or draw, or has substantial off-site drainage, is required to provide adequate rights-of-way and channelization for drainage. The City may elect, provided funds are available, to participate in the cost of a major drainage structure (e.g., bridge, culvert, or multi-box culvert) along the perimeter of the subdivision, but the developer shall be responsible for not less than one-third the cost of the structure if it provides access to the subdivision or conveys drainage through or from the subdivision. However, if a major drainage structure is required only to provide access and/or drainage for the subdivision, there will be no city participation in the cost.

(C) *Procedures for city participation.*

1. *Participation requests.* A request for city participation for those facilities identified in Section 11-2-6(B) shall be initiated through the submission of an application for participation by a developer. Such application shall be submitted in the form specified by the City prior to commencement of construction. The request for participation shall be accompanied by proposed construction drawings showing the reimbursable items, a copy of the contractor's bid for construction, final payments with quantities, oversized calculations for all reimbursable items and a project location map.
2. *City determination of oversized costs.* The city engineer initially shall determine an amount for city participation in the costs of public improvements, based on public improvement plans approved by him, in accordance with the criteria in Section 11-2-6(A) and (B). The Council shall approve any requests for participation. The terms of the City's participation shall be incorporated within the development agreement.
3. *Reimbursement.* Reimbursement of the City's share of participation in the costs of public improvements shall be made as funds become available, unless otherwise specified in the development agreement.

(D) *Escrow policies and procedures.*

1. *Deposit with City.* Whenever the City agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner or developer shall deposit an amount in escrow with the City equal to his share of the costs of design and construction. Such amount shall be paid prior to the time of final plat approval.
2. *Determination of escrow amount.* The amount of the escrow shall be determined by an estimate of the City engineer based on comparable bids awarded by the City and current market value of the construction. Such determination shall be made as of the time the escrow is due hereunder.

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3. *Termination of escrow.* Escrows placed with the City under this Section which have been held for a period of ten years from the date of such payment, in the event that the City has not authorized the preparation of plans and specifications for construction of such facilities for which the escrow was made, shall, upon written request, be returned to the property owner, with accrued interest. Such return does not remove any obligations of the owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
 4. *Interest limitation.* If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent less than the rate of actual earnings.
- (E) *Pro rata fees.*
1. *Water and wastewater line reimbursements.*
 - (a) *Nature of fee.* A charge known as a "pro rata fee" shall be imposed on each lot or tract abutting an existing water or wastewater main for which such fee has been established pursuant to this Section, as a condition of connection to such main, for the purpose of reimbursing the developer who previously installed or paid for the main.
 - (b) *Amount of fee.* The pro rata fee shall be established for each side of the main to which connections are made. The fee for each side shall be equivalent to one-half the cost of the constructed main less the oversize participation, if any, together with all appurtenances, for that length of the main abutting the property being charged. For mains where connections can be made on one side only, the fee shall be equivalent to the cost of the constructed main less the oversize participation, if any, together with all appurtenances, for that length of the main abutting the property being charged.
 2. *Procedure for establishing pro rata fees.*
 - (a) *Request for pro rata fees.* Prior to final acceptance of the improvements, the developer who installs a water or wastewater main shall request the establishment of a pro rata fee for such facility.
 - (b) *Submittal requirements.* The request to establish a pro rata fee shall be in a form specified by the City. The request shall include a copy of the actual contract for construction of the water and/or wastewater mains with unit prices. The request must identify the constructed cost of the main, including any fire hydrants, valves, fittings, manholes and other appurtenances which were determined to be necessary for construction of the main.
 - (c) *Verification of costs by engineer.* The director shall verify the developer's calculations of main costs. In the event of disagreement, the director shall establish the cost per unit length for the pro rata fee.
 - (d) *Reimbursement amount.* The maximum amount for which a developer may be reimbursed from the proceeds of pro rata fees shall not exceed the costs determined by the director under subparagraph (c) hereof, less the amount of any city participation in costs pursuant to Section 11-2-6(C) hereof.
 3. *Payment of pro rata fees.*
 - (a) *Obligation to pay fee.* Any property owner whose property lies adjacent to a street, alley or easement containing an existing water or wastewater main for which a pro rata fee has been established pursuant to these regulations shall pay the applicable fee prior to final plat approval of the property.

(b) *Calculation of fee.* The amount of the pro rata fee shall be calculated by multiplying the unit cost determined in paragraph 2 of Section 11-2-6(E) by the length of that portion of the property boundary of a lot which abuts a street, alley or easement containing a water or wastewater main for which pro rata fees have been established. The number of linear feet shall be determined by the following formulas:

- (1) For residential lots: When the main installation is designed to serve property on only one side of the street or alley, the frontage rates established according to paragraph 2 above shall be doubled. The frontage rates shall apply to property fronting on streets in areas platted into the usual rectangular lots or tracts of land, with a depth not to exceed 45 meters (150 feet). Where lots or tracts have greater depth than 45 meters (150 feet) from the front street line and are occupied, or are to be occupied, exclusively as dwelling places then the additional depth shall not be assessed. If the property is later subdivided, requiring the extension of mains to serve same, then the terms of this Chapter shall govern. Where lots or tracts are irregular in size or shape, then the pro rata charged shall be based upon equivalent rectangular lots or tracts using one front meter (foot) for each 150 square meters (feet) of area, or the pro rata charges provided herein on the average frontage of such tracts, whichever is least.
- (2) For commercial lots: On lots or tracts of land which extend through from one street to another, with frontage on both streets, and where the distance between the street lines is 80 meters (260 feet), or more, then the pro rata charges herein provided for shall be paid on both frontages when a connection is secured to the lot or tract.

Where lots or tracts are irregular in size or shape, then the pro rata charged shall be based upon equivalent rectangular lots or tracts using one front meter (foot) for each 150 square meters (feet) of area, or the pro rata charges provided herein on the average frontage of such tracts, whichever is least.

Where lots or tracts have a depth greater than 45 meters (150 feet) from the front street line, then the pro rata herein provided shall be paid on the frontage on all streets which the property may abut minus 45 meters (150 feet) frontage for each corner of the property abutting a street intersection. Should said property be resubdivided whereby further extensions are required to service same, the terms of this Chapter shall apply.

4. *Pro rata fee account.* A pro rata fee account is hereby established. The City shall deposit all pro rata fees collected pursuant to Section 11-2-6(E)3 into such account. Expenditures from such account shall be earmarked solely for reimbursement of developers for the reasonable costs of installing water mains or wastewater mains for which pro rata fees have been established pursuant to Section 11-2-6(E)2.

5. *Reimbursement for water and wastewater main extensions.*

- (a) *Reimbursement time limit.* For a period of seven years after dedication to and acceptance by the City of the completed facility, the developer shall be entitled to reimbursement from the proceeds of the pro rata fees established pursuant to Section 11-2-6(E)2 up to the total cost of the extensions established by resolution pursuant to Section 11-2-6(E)3(a). Payment shall be from the pro rata fee account. Upon request of the developer, the City shall make reimbursements for main extensions semiannually on May 1 and November 1 of each calendar year. Following expiration of such period, the City shall cease to collect pro rata fees for the main.
- (b) *Unclaimed funds.* If the City is unable to reimburse the developer who installed the main following reasonable attempts to locate such developer, the City shall transfer all fees which remain unclaimed seven years following the date of acceptance of the water or wastewater main to the water and sewer fund for disposition in accordance with general provisions.

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6. *City collection fee.* The City shall collect from the property owner paying pro rata fees an additional two percent of the amount collected plus \$100.00 as a collection fee. The City shall establish a collection fee account into which all such monies shall be deposited for purposes of administering this Section. Any interest earned on the pro rata fee account shall also be deposited in the collection fee account.
 7. *Method of enforcing pro rata payment.* Nothing herein shall be deemed in any way to be an exclusive method of enforcing the payment of pro rata fees against the property owner, and shall not be deemed in any manner to be a waiver of the City's right to validly assess the property owner for the costs of installing a standard size water or wastewater main and to affix and enforce liens against said property, all of which may be done as provided by ordinance in the manner prescribed by law.
 8. *Application of pro rata fees to existing mains predating Chapter.* Pro rata fees imposed on property abutting a water or wastewater main installed by a developer prior to June 26, 1990, pursuant to former Section 3-1-13 of the City Code, which fees are for the sole purpose of reimbursing such developer for the costs of installing a standard size main, shall be collected at the following rates:
 - (a) Six dollars per front foot of the lot or tract of land to which water connections may be made.
 - (b) Five dollars per front foot of the lot or tract of land to which wastewater connections may be made.

Computation of fees for such facilities shall be as provided under this Section. Following June 26, 1990, the City shall neither impose nor collect fees for city-installed facilities pursuant to former Sections 3-1-9 through 3-1-18 of the City Code, nor shall the City continue to collect pro rata fees for developer-installed facilities following the expiration of the period for refund pursuant to former Section 3-1-14. The rights of persons entitled to refunds under previous ordinances where the water or wastewater installations have actually been made shall remain unaffected by this Chapter.

- (F) *Payment of fees, charges and assessments.* As a condition of plat approval, the property owner shall pay all fees, charges and assessments required to assure adequacy of public facilities to the subdivision, as may be imposed under this Chapter or other regulations of the City.

(Ord. No. 7333, § 1, 6-14-1994)

11-2-7. Replatting.

(A) *Replatting of land.*

1. *Replat required.* Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the platting of land by these regulations.
2. *Replatting without vacating preceding plat.* A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
 - (a) Is signed and acknowledged by only the owners of the property being replatted.
 - (b) Is approved by the commission after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard.
 - (c) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.
3. *Additional requirements for certain replats.*

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- (a) In addition to compliance with subparagraph (b) below, a replat without vacation of the preceding plat must conform to the requirements of this Section if:
 - (1) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot.
 - (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

Compliance with this paragraph is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

- (b) Notice of the hearing required under subparagraph 2(b) shall be given prior to the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county and by written notice, with a copy of subparagraph (c) below attached, forwarded by the director to the owners, as indicated on the most recently approved ad valorem tax roll of the City, of property in the original subdivision within 200 feet of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.
- (c) If the owners of 20 percent or more of the land area within which notice is required to be given under subparagraph (b) file with the commission a written protest of the replatting before or at the hearing, approval of the replat will require the affirmative vote of three-fourths of all members of the commission. The area of streets and alleys shall be included in computing the percentage of land area.

(B) *Amending plats.*

- 1. The commission may, upon petition of the property owner or developer, approve an amending plat which is signed by the applicants only unless otherwise required to the contrary, and which is for one or more of the purposes set forth in this Section, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:
 - (a) To correct an error in any course or distance shown on the prior plat;
 - (b) To add any course or distance that was omitted on the prior plat;
 - (c) To correct an error in the description of the real property shown on the prior plat;
 - (d) To indicate monuments set after death, disability, or retirement from practice of the surveyor charged with responsibilities for setting monuments;
 - (e) To show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;
 - (f) To correct any other type of scrivener or clerical error or omission as previously approved by the commission or Council; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (g) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that

such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

- (h) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or
- (i) To relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:
 - (1) Attempt to remove recorded covenants or restrictions; or
 - (2) Increase the number of lots.

2. *Procedures.* Amending plats shall be processed using procedures set forth in Section 11-2-3.

(C) *Plat vacation.*

1. *By property owner.* The property owner of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold upon the approval of the commission. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
2. *By all lot owners.* If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
3. *Criteria.* The commission shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare. As a condition of vacation of the plat, the commission may direct the petitioners to prepare a revised final plat in accordance with these regulations.
4. *Effect of action.* On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the commission's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the commission.
5. *Government-initiated plat vacation.*
 - (a) *General conditions.* The commission, on its motion, may vacate the plat, or a portion of the plat, of an approved subdivision when one of the following occurs:
 - (1) The plat has been of record for more than two years, the property owner has not installed all public improvements according to approved public improvement plans for the subdivision and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor.
 - (2) The plat has been of record for more than five years and the commission determines that the further sale of lots within the subdivision presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
 - (b) *Procedure.* Upon any motion of the commission to vacate the plat of any previously approved subdivision, in whole or in part, the commission shall publish notice in a newspaper of general circulation in the county and provide personal notice to all property owners within the subdivision and shall also provide notice to the Council. The notice shall state the time and place

for a public hearing on the motion to vacate the subdivision plat. The commission shall approve the vacation only if the criteria in paragraph 3 herein are satisfied.

- (c) *Record of notice.* If the commission approves a plat vacation in whole, it shall record a copy of the approval in the county clerk's office. If the commission approves a plat vacation in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

(Ord. No. 7333, § 1, 6-14-1994)