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# *CITY OF LUFKIN*

## *SUBDIVISION ORDINANCE*

*NO. 3693*



*"COMMUNITY OF EXCELLENCE"*  
*WORKING TO BUILD A BETTER TOMORROW*

*Approved: April 6, 2004*

*Revised: January 4, 2012*

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## **AMENDMENTS TO SUBDIVISION ORDINANCE**

<b>ORDINANCE #</b>	<b>AMENDMENT DESCRIPTION</b>	<b>ORDINANCE DATE</b>
3999	Minor Plat (Chapter I, Section 1.17,31)	8/7/07
4034	Flag Lot (Chapter I, Section 1.17,29a. & Chapter III 3.5 F)	12/4/07
4395	Infrastructure Assistance (Chapter 3, Section 3.8 E)	1/3/12
4396	Type "F" Roads (Chapter 3, Section 3.1 M)	1/3/12
4397	One Lot Subdivisions (Chapter 2, Section 2.10 F)	1/3/12

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# SUBDIVISION ORDINANCE

## *City of Lufkin, Texas*

### *Ordinance No. 3693*

## I. GENERAL PROVISIONS

### ***Section 1.1: Authority***

- A. The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City of Lufkin, Texas, also known and cited as the "Lufkin Subdivision Ordinance," and shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate City limits of the City of Lufkin, as they may be from time to time adjusted by annexation or disannexation, and within all the areas of the extraterritorial jurisdiction of the City of Lufkin, as that area may exist from time to time as provided by Chapter 42 of the Texas Local Government Code. The City shall have all remedies and rights provided by said Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction.

### ***Section 1.2: Interpretation and Purpose***

- A. In the interpretation and application of the provisions of these regulations, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City of Lufkin and its extraterritorial jurisdiction, and superseding the previous Subdivision Ordinance (Ordinance No. 1170 Adopted on June 2, 1964 and subsequent amendments).
- B. The subdivision of land is the first step in the process of urban development. The distribution and relationship of residential, commercial, industrial and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations, are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the



requirements in this Ordinance further the possibility that land will be developed for its most beneficial use in accordance with existing social, economic and environmental conditions.

- C. The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the City of Lufkin, Texas are intended to:
1. Promote the development and the utilization of land in a manner that assures the best possible community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City of Lufkin;
  2. Guide and assist the developers in the correct procedures to be followed, and to inform them of the standards which shall be required;
  3. Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities and essential areas and services required;
  4. Assist orderly, efficient and coordinated development within the City limits and extraterritorial jurisdiction;
  5. Provide for neighborhood conservation and prevent the development of slums and blight;
  6. Harmoniously relate the development of various tracts of land to the existing community, and facilitate the future development of adjoining tracts;
  7. Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance;
  8. Provide the best possible design for each tract being subdivided;
  9. Provide the most attractive relationship between the uses of land and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;
  10. Prevent pollution of the air, streams and ponds; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
  11. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
  12. Establish adequate and accurate records of land subdivision;
  13. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future subdivisions and developments within the City and its extraterritorial jurisdiction;



14. Protect and provide for the public health, safety and general welfare of the community;
  15. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
  16. Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;
  17. Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;
  18. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
  19. Encourage the development of a stable, prospering economic environment.
- D. Minimum standards for development, including all City Public Works, are contained in the City's Technical Construction Standards & Specifications (TCSS) Manual, related technical standards, the Zoning Ordinance, the Building Code and in this Ordinance. However, the Comprehensive Plan, the Future Land Use Plan, and the City's Water and Wastewater Master Plans express policies designed to achieve an optimum quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within this Ordinance, and shall be encouraged to exceed the minimum standards required herein.

### ***Section 1.3: Application of Regulations***

- A. No subdivision plat within the City limits or the City's extraterritorial jurisdiction shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with this Subdivision Ordinance. Furthermore, no building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until:
1. A final plat has been approved in accordance with these regulations; and
  2. All improvements, as required by these regulations, have been constructed and accepted by the City of Lufkin, or
  3. Assurances for completion of improvements have been provided in accordance with Section 6.
- B. When the final plat is filed at the County, it shall be accompanied by a tax certificate, in accordance with State law.

## ***Section 1.4: Jurisdiction***

- A. The provisions of this Subdivision Ordinance, as authorized by Subchapters A and B of Chapter 212 of the Texas Local Government Code, including the Technical Construction Standards & Specifications (TCSS) Manual, shall apply to the following forms of land subdivision and development activity within the City's limits or its extraterritorial jurisdiction:
1. The division of land into two or more tracts, lots, sites or parcels; or
  2. All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City's subdivision regulations in Angelina County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
    - a. Annexation; or
    - b. Extension of the City's extraterritorial jurisdiction.
  3. The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
  4. For tracts where any public improvements are proposed;

## ***Section 1.5: Exemptions***

- A. The provisions of this Subdivision Ordinance shall not apply to:
1. Development of land legally platted and approved prior to the effective date of this Ordinance, except as otherwise provided for herein (construction of facilities shall conform to construction standards in effect at the time of construction) and for which no re-subdivision is sought or required; or
  2. Development of land constituting a single tract, lot of record, site or parcel for which a legal deed of record describing the boundary of said tract, lot of record, site or parcel was filed of record in the Deed Records of Angelina County, Texas on or before April 10, 1969.
  3. Inheritance, or gift of land by metes and bounds of tracts upon which no improvements, subdivision or alteration is occurring; or
  4. Existing cemeteries complying with all State and local laws and regulations (does not apply to new cemeteries or expansion of existing cemeteries); or
  5. Divisions of land created by order of a court of competent jurisdiction; or
  6. When a building permit is requested for unplatted or already platted parcels for the following activities:
    - a. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage of the original structure



- b. Additions (i.e., increasing square footage of structure) of not over fifty percent (50%) of the existing structure's value, and of not over twenty percent (20%) of the gross floor area
  - c. Accessory buildings
  - d. Remodeling or repair (i.e., no expansion of square footage)
  - e. Moving a structure off a lot or parcel, or for demolition permits.
7. Sale or inheritance of homesteads not greater than three (3) acres in size when said homestead is part of a large tract, and both the homestead and the large tract are under common ownership. Each large tract shall be a minimum of ten (10) acres in size.

### ***Section 1.6: Applicable Law***

- A. All applications for plat approval, including final plats, that are pending on the effective date of this Ordinance and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this Ordinance.

### ***Section 1.7: Interpretation; Conflict; Separability***

- A. Interpretation. In their interpretation and application, the provisions of the regulations contained in the Subdivision Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- B. Conflict 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. To the extent that the Subdivision Ordinance promulgates standards or imposes restrictions or duties which differ from those imposed by other City ordinances, rules or regulations, the regulations contained within the Subdivision Ordinance shall supersede such other provisions to the extent of any conflict or inconsistency.
- C. Separability. If any part or provision of the Subdivision Ordinance, or the application of these regulations to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The City Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

### ***Section 1.8: Saving Provision***

- A. This Ordinance 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 the Subdivision Ordinance, 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 in these regulations.

## ***Section 1.9: Superseding Regulations***

- A. Upon adoption of the Subdivision Ordinance according to law, all other subdivision regulations of the City of Lufkin previously in effect are hereby superseded, except as provided in Sections 1.6 and 1.7.
- B. Any administrative plat that may have been approved by the City shall be considered valid upon the adoption of this Ordinance.

## ***Section 1.10: Amendments***

- A. For the purpose of protecting the public health, safety and general welfare, the Planning and Zoning Commission and/or City Council may, from time to time, propose amendments to these regulations which shall then be approved or disapproved by the City Council at a public meeting, and which shall then be amended through adoption of an amending ordinance following due process and public hearing. See Section 5.1.E for procedures for amendments of the TCSS Manual.

## ***Section 1.11: Petition for Hardship Waiver***

- A. Petition for Waiver. The applicant for a subdivision application, or the owner of the property subject thereto, may petition the City Council for waiver of any standard of this Subdivision Ordinance or the imposition of a condition related thereto, where the petitioner alleges that unreasonable hardships will result from strict compliance with such standard or condition.
- B. Procedures. A petition for a waiver shall be submitted in writing to the City Engineer (or designee) by the petitioner at the time the subdivision application is filed for the consideration by the Planning and Zoning Commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner. The City staff shall prepare a report evaluating the request for waiver, and shall make its recommendation to the Commission. The Commission shall make its recommendation and the City Council shall finally act on the petition for a waiver in conjunction with the action taken by each on the subdivision application.
- C. Criteria for Approval. The City Council, following recommendation by the Planning and Zoning Commission, may waive the standard or condition only upon finding that:
  - 1. Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property;
  - 2. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;
  - 3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the standard is strictly applied;
  - 4. The waiver is not contrary to the intent and purpose of these subdivision regulations.
- D. Conditions. In approving a waiver, the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.2.

## ***Section 1.12: Petition for Relief***

- A. Petition for Relief. The applicant for a subdivision application, or the owner of the property subject thereto, may petition the City Council for relief from the application of any provision of this Subdivision Ordinance that requires dedication of an interest in land for rights-of-way or construction of capital improvements in order to provide adequate water, wastewater, roadway or drainage facilities to serve the proposed subdivision, or the imposition of a condition related thereto. The petition must allege that application of the provision or the imposition of conditions relating to the provision and requiring such dedication of land or construction of capital improvements is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, roadway or drainage facilities system, as the case may be, or does not reasonably benefit the proposed development. The petition may also allege that the application of the provision or the imposition of conditions relating to the provision deprives the applicant or the property owner of the economically viable use of the land, or of a vested property right.
1. Prior to decision by the Planning and Zoning Commission on a subdivision application that is subject to this Section, an applicant who proposes to challenge the application of a provision that requires dedication of an interest in land for rights-of-way or construction of capital improvements to serve the proposed subdivision, or the imposition of conditions related thereto, shall file a notice of intent to appeal such determination to the City Council. Approval of such subdivision application by the Planning and Zoning Commission shall include a condition that approval is subject to the Council's decision on the petition for relief.
  2. If a petition for a waiver from the requirements of this Subdivision Ordinance pursuant to Section 1.11 has been filed by the petitioner, the petition for relief may be submitted in conjunction with the Council's review of such request.
  3. The subdivision application may otherwise be decided by an administrative officer of the Planning and Zoning Commission, the petition for relief shall be submitted by the petitioner within ten (10) calendar days of receiving the staff report applying the requirement or imposing the condition.
- B. Study Required. The applicant or property owner shall provide a study completed by a professional engineer registered in the State of Texas in support of the petition for relief that includes the following information:
1. Total capacity of the City's water, wastewater, roadway or drainage facilities system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the subdivision application is part of a phased development project, such information shall also be provided for the entire development proposed, including any phase already developed.
  2. Total capacity to be supplied to the City's water, wastewater, roadway or drainage facilities system by the proposed dedication of an interest in land for rights-of-way or construction of capital improvements. If the subdivision application is part of a phased development project, the information shall include any capacity supplied by prior dedications or construction of capital improvements.



3. The study supplied by the petitioner shall be evaluated by City staff, who shall make its recommendation to the Planning & Zoning Commission and City Council based upon the information contained in the study and any additional information related to the petition produced by the staff. In evaluating the petition, the staff shall take into account any traffic impact, drainage or other adequate facilities studies evaluating the impacts of the development or similar developments on the City's water, wastewater, roadway or drainage facilities systems.
- C. Action on Petition. The City Council shall consider the petition and determine whether the application of the provision requiring dedication of an interest in land for rights-of-way or construction of capital improvements in order to provide adequate water, wastewater, roadway or drainage facilities to serve the proposed subdivision, or the imposition of a condition related thereto, is roughly proportional to the nature and extent of the impacts created by the proposed development on such public facilities systems, and reasonably benefits the development. In making such determination, the City Council shall consider the evidence submitted by the applicant or property owner and the staff's recommendation. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of the economically viable use of the land or of a vested property right, the Council shall also resolve such issues. Following such determinations, the Council may take any of the following actions:
1. Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development upon community water, wastewater, roadway or drainage facilities, and either:
    - a. Deny the subdivision application; or
    - b. Require that additional dedications of rights-of-way for, or improvements to such, facilities systems be made as a condition of approval of the application; or
  2. Grant the petition for relief, and waive in whole or in part any dedication or construction requirement that is not roughly proportional; or
  3. Grant the petition for relief, and direct that the City participate in the costs of acquiring rights-of-way for or constructing such facility pursuant to standard City participation policies.

### ***Section 1.13: Enforcement; Violations; Penalties***

- A. 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 two thousand dollars (\$2,000.00) per day, with each day constituting a separate violation, pursuant to the Texas Local Government Code, Chapter 54, as amended.
- B. Civil Enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct or abate a violation of these regulations, whether such violation occurs with respect to lands 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.



### ***Section 1.14: Payment of All Indebtedness Attributable to a Specific Property***

- A. No person who owes delinquent taxes, delinquent paving assessments, or any other delinquent debts or obligations to the City of Lufkin, and which are directly attributable to a piece of property, shall be allowed to record an approved plat or replat until the taxes, assessments, debts and/or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City Engineer (or designee) has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts and/or obligations have been paid.

### ***Section 1.15: Right to Deny Hearing and/or Plat***

- A. The City shall have the right to deny a hearing and/or plat if the person or applicant proposing a subdivision of land does not submit the information required to be shown on a plat and the required application fees as prescribed by this and other ordinances.

### ***Section 1.16: Misrepresentation of Facts Unlawful***

- A. Misrepresentation of Facts. It shall be unlawful for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance on any application for annexation, zoning, development or subdivision of property. Misrepresentation, or deliberate omission, of facts pertaining to the plat on the application form(s) or at a public meeting shall constitute grounds for denial of the plat.
- B. Penalties and Exceptions. If any applicant for such hearing, or any owner of property subject to such hearing, shall allow such hearing before the Planning and Zoning Commission and/or the City Council to be heard in violation of any of the provisions of the Ordinance, such person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as per Section 1.13.

### ***Section 1.17: Definitions***

- A. For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.
1. Addition. A lot, tract or parcel of land lying within the corporate boundaries of the City and/or its extraterritorial jurisdiction which is intended for the purpose of development.
  2. Administrative Officers. Any office referred to in this Ordinance by title (e.g., City Manager, City Attorney, City Secretary, City Engineer, Director of Planning, etc.), shall be the person



- so retained in this position by the City, or his duly authorized representative (i.e., designee). This definition shall also include any engineering, planning, legal and/or other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.
3. Alley. A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street. The length of an alley segment is to be measured from the right-of-way lines (i.e., alley entrance points) of the streets from which the alley is provided access (including any turnouts).
  4. Amended Plat. A revised plat correcting errors or making minor changes to the original recorded final plat. Also termed "amending plat".
  5. Amenity. An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.
  6. Base Flood. The 100-year flood event or a flood having a one percent (1%) chance of being equaled or exceeded in any given year.
  7. Block Length. For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street (i.e., not a cul-de-sac or dead-end/looped street) to the intersecting centerpoint of another; or to the midpoint of a cul-de-sac. Also termed "street length".
  8. Bond. Any form of a surety bond in an amount and form satisfactory to the City.
  9. Building Setback Line. The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street (or property) line.
  10. Capital Improvements Program (CIP). The official proposed schedule of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.
  11. City. The City of Lufkin, Texas, together with all its governing and operating bodies.
  12. City Engineer. A qualified professional, or firm of registered professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters.
  13. City Manager. The person holding the position of City Manager, as appointed by the City Council and according to the City Charter.
  14. Commission. The Planning and Zoning Commission of the City.
  15. Comprehensive Plan. The phrase "Comprehensive Plan" shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council and the City Planning and Zoning Commission, including all its revisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings,



- p streets, parks, water/wastewater facilities, and other public and private developments and improvements.
16. Concept Plan. A sketch drawing of initial development ideas superimposed upon a topographic map to indicate generally the plan of development, and to serve as a working base for noting and incorporating suggestions of the City Engineer, Director of Planning, Planning and Zoning Commission, or others who are consulted prior to the preparation of the preliminary plat.
  17. Construction Plans or Drawings. The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the City as a condition of approval of the plat.
  18. Contiguous. Lots are contiguous when at least one boundary line of one lot touches a boundary line, or lines, of another lot.
  19. Council or City Council. The duly elected governing body of the City of Lufkin, Texas.
  20. Cul-De-Sac. A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround ("bulb"). The length of a cul-de-sac is to be measured from the intersection center point of the adjoining through street to the midpoint of the cul-de-sac bulb.
  21. Dead-End Street. A street, other than a cul-de-sac, with only one outlet.
  22. Development Plat. A plat for a parcel of land that is five (5) acres or larger for which the owner or subdivider claims exemption from Chapter 212, Subchapter "A" of the Texas Local Government Code.
  23. Easement. The word "easement" shall mean an area for restricted use on private property upon which the City and/or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and/or other improvements or growths which in any way endanger or interfere with the construction, maintenance and/or efficiency of its respective systems within said easements. Public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.
  24. Escrow. A deposit of cash with the City in accordance with City policies.
  25. Filing Date. The filing date is when all necessary forms, fees, and copies are submitted and accepted for filing by action of issuance of a fee receipt by the City.
  26. Final Plat (also "Record Plat" or "File Plat"). The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, city gps monument or benchmark, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional



references. The final plat of any lot, tract or parcel of land shall be recorded in the records of Angelina County, Texas. An amended plat is also a final plat.

27. Improvement or Developer Agreement. A contract entered into by the developer and the City, by which the developer promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.
28. Land Planner. Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, and/or by actual experience and practice in the field of land planning, and may be a member of the American Institute of Certified Planners (AICP).
29. Lot (also Lot of Record). A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.
- 29a. Lot, Flag. A lot which has a stem, or a narrow strip of land connecting the main property to the street. The stem or strip must be wide enough to meet the subdivision requirement for frontage on a street and maintain a minimum width of 30 feet along its entire length, but may be less than the required width for the particular zone in which it is situated.
30. Major Plat. All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other City Ordinance.
31. Minor Plat. A subdivision or replat resulting in four (4) or fewer lots, provided that the plat does not create any new easements for public facilities, or that the construction/development of said subdivision will not require the construction of any new street (or portion thereof) or the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be served by all required City utilities and services. If the development of any lot within the proposed subdivision will require the construction of a new street (or portion thereof) or a public improvement (e.g., water or sewer line, drainage facility, required screening wall, etc.), the plat shall be classified as a major plat.
32. On-Site Facilities or Improvements. "On-site" shall mean those existing or proposed facilities or improvements constructed within the property boundaries of the plat. "On-site" shall also mean those existing or proposed facilities required to be constructed or improved immediately adjacent to the property and which are required to serve the development. These include streets, alleys, water lines, sewer lines, storm drainage facilities, curbs and gutters, and any other construction or reconstruction needed to serve the property.
33. Off-Site Facilities or Improvements. "Off-site" facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat. These include oversizing and extension of streets, sewer lines, water lines and

storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

34. Overlength Street (or Cul-De-Sac or Alley). A street segment (or a cul-de-sac or alley segment) which exceeds the maximum length allowed by this Ordinance, as measured along the centerline of the street from the intersection centerpoint of one through street to the intersecting centerpoint of another.
35. Parcel. A piece of land created by a partition, subdivision, deed or other instrument recorded with the appropriate recorder. This includes a lot, a lot of record, or a piece of land created through a metes and bounds description.
36. Pavement Width. The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the face of one curb to the face of the opposite curb.
37. Perimeter Street. Any existing or planned street which abuts the subdivision or addition to be platted.
38. Person. Any individual, association, firm, corporation, governmental agency, or political subdivision.
39. Planning and Zoning Commission. The Planning and Zoning Commission of the City of Lufkin, Texas. Same as "Commission".
40. Preliminary Plat. The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, shown by superimposing a scale drawing of the proposed land division.
41. Private Street. A private vehicular access way that is shared by and that serves two or more lots, which is not dedicated to the public, and which is not publicly maintained. The term "private street" shall be inclusive of alleys where they are provided.
42. Replatting (or "To Replat"). The resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.
43. Right-of-Way. A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, "right-of-way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and/or gas facilities; water or sanitary/storm sewer facilities; or for any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. 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 shall not be included within the dimensions or areas of such lots or parcels.
44. Street. A right-of-way (public or private), however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:
  - a. Major thoroughfares (arterial streets, primary thoroughfares, etc.) provide vehicular movement from one neighborhood to another, to distant points within the urban area, and/or to freeways or highways leading to other communities.



- b. Collector streets ("feeder" streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
  - c. Local residential streets (minor thoroughfares or streets, etc.) are primarily for providing direct vehicular access to abutting residential property.
  - d. Private streets (owned and maintained by a property/homeowners association, and not dedicated to the public).
45. Street Improvements. For the purpose of this Ordinance "street improvements" mean any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, and including but not limited to sidewalks, drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.
46. Street Right-of-Way. The width of the right-of-way for any roadway is the shortest distance between the lines which delineate the rights-of-way of the street.
47. Subdivider. Any person, or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, such as a developer, of land sought to be subdivided.
48. Subdivision (also "Addition"). A division or redivision of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of such limits, for the purpose of transfer of ownership; layout of any subdivision of any tract of land or addition; or for the layout of building lots or streets, alleys or other components for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.
49. Substandard Street. An existing street or road that does not meet the minimum specifications in the Standard Street Specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan. A standard street is a street or road that meets or exceeds said standard specifications and its designation on the City's Thoroughfare Plan.
50. Surveyor. A licensed land surveyor or a registered public surveyor, as authorized by State statutes to practice the profession of surveying.
51. Technical Construction Standards & Specifications Manual (TCSS). Those construction standards and specifications established by the City to ensure proper installation of the improvements required by this Ordinance. The TCSS Manual shall be collectively the following documents, and shall be available for review or purchase at the City of Lufkin during normal business hours:
- a. Standard Specification for Public Works Construction Modifications (SSPWC);
  - b. Street Construction Details;
  - c. Drainage Construction Details;
  - d. Water Construction Details;
  - e. Sewer Construction Details;



- f. Erosion Control Details;
  - g. Access Management and Design Standards;
  - h. Drainage Criteria Manual;
  - i. North Central Texas Standard Specifications for Construction ("Blue Book") as amended; and/or,
  - j. Other Technical Manual(s) as included after the adoption of this ordinance (See Section 5.1E).
52. Temporary Improvements. Improvements built and maintained by the property owner or subdivider that are needed to remedy a circumstance that is temporary in nature and is required because of safety related issues (e.g., a temporary drainage easement or erosion control device), and that will be removed upon completion of the subdivision or shortly thereafter (i.e., is not intended to be permanent).
53. Texas Commission on Environmental Quality (TCEQ). Formerly known as the Texas Natural Resource Conservation Commission; the name change became effective on September 1, 2002.



## II. PROCEDURES

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### ***Section 2.1: Pre-Application Procedures***

- A. The subdivider(s) should avail themselves of the advice and assistance of the City officials, and should consult early and informally with the City Engineer, Planning Director, and/or other designated administrative officers before preparing a plat (e.g., a preliminary plat, final plat, amended plat, replat, etc.), and before formal application for approval of same in order to save time, money and to avoid unnecessary delays.

### ***Section 2.2: General Requirements and Procedures***

- A. **Zoning Requirements.** A property within the City's corporate limits that is being proposed for platting must be properly zoned by the City prior to submission of an application for approval of any plat. In addition, the proposed development layout or subdivision design shown on the proposed plat must be in conformance with all standards and requirements prescribed in the City's Zoning Ordinance.
1. Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of the plat. In situations where the zoning on a particular piece of property cannot be ascertained by the City, the burden of proof regarding the property's zoning shall rest with the property owner. Proof of proper zoning shall consist of appropriate documentation, such as a copy of the ordinance establishing the zoning, which shall be reviewed by City officials as to its validity and authenticity.
  2. Any plat submitted for approval by the City shall be in accordance with the City's Zoning Ordinance, if the property is located within the City's corporate limits, and, if the property is located within the City's corporate limits or extraterritorial jurisdiction, it shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and thoroughfare plans. All plats shall be prepared by a registered professional land surveyor.
- B. **Classification of Subdivisions and Additions.** Before any land is platted (i.e., filed for record), the property owner shall apply for and secure approval of the proposed subdivision plat, in accordance with the following procedures, unless otherwise provided within this Ordinance. Subdivisions are classified as major or minor (see definitions), depending upon the number of lots to be created and upon whether or not any public improvements will be required to develop the property.
1. Minor subdivisions may be approved for residential or nonresidential properties. Minor plat approval requires the submission of a final plat drawing and other submission materials required by Section 2.10 of this Ordinance. ***Lots may be conveyed or sold only when the plat has been approved and the plat has been filed with the Angelina County Clerk or as required by State Law.***





2. Major subdivisions involve the creation of new streets, the construction/extension of a municipal facility(s), and/or the creation of more than four (4) lots. Major subdivisions may be approved for residential or non-residential properties. Major plat approval shall be in accordance with Sections 2.4 and 2.5. All major subdivision plats must be approved by the Planning and Zoning Commission or City Council in case of appeals, pursuant to this Ordinance, specifically Section 1.11 and 1.12. ***Lots may be conveyed or sold only when the plat has been approved and the plat has been filed with the Angelina County Clerk or as required by State Law.***
- C. Submission Requirements For All Types of Plat Applications. In addition to the requirements outlined herein for each type of development application, the City shall maintain separate policies and procedures for the submission and processing of applications including, but not limited to, application forms, checklists, language blocks for plats, and other similar items. The forms and paperwork are available at the office of the City Engineer, or designee. These policies and procedures may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with, the policies and procedures.
- D. Official Submission Date and Completeness of Application For All Types of Plats.
  1. For the purpose of these regulations, the "official submission date" shall be the date upon which a complete application for approval of any type of plat, that contains all required elements mandated by the Texas Local Government Code, Section 212.004(b) and by this Ordinance, is submitted to the City Engineer (or designee), after which the statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially submitted until the City Engineer (or designee) determines that the application is complete and a fee receipt is issued by the City. Failure by the City Engineer (or designee) to make a determination of incompleteness within five (5) calendar days for a minor plat and ten (10) calendar days for a major plat following the date on which the application was first received by the City, shall result in the application being deemed complete, and the "official submission date" shall become the 6<sup>th</sup> or 11<sup>th</sup> calendar day, respectively, following initial receipt of the application by the City.
  2. Plat applications which do not include all required information and materials, as outlined below and per other City development review policies which may change from time to time, will be considered incomplete, shall not be accepted for official submission by the City, and shall not be scheduled on a Commission agenda until the proper information is provided to City officials.
- E. Action by Planning and Zoning Commission and City Council. The Planning and Zoning Commission shall approve or disapprove a preliminary or final plat (or other type of plat, including replat) application, or shall identify requirements which must be satisfied prior to approval of such application, within thirty (30) days of the official submission date. For purposes of this Section, identification of requirements which must be satisfied prior to approval of the application shall be considered denial of the plat application. In the case of an appeal to the City Council after denial of a plat by the Planning and Zoning Commission, such appeal must be filed within five (5) days and the City Council shall act upon the plat application within thirty (30) days following the Commission's action.
- F. Simultaneous Submission of Plats. In the event that an applicant submits preliminary and final plat applications simultaneously, the Planning and Zoning Commission shall act upon both plats within (30) days of the official submission date. The thirty (30) day period for action shall not be

extended except upon the execution of a written waiver by the applicant. No final plat shall be approved prior to the approval of the preliminary plat.

- G. **Proof of Land Ownership.** The City requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide written verification, such as a notarized statement or a power of attorney or other evidence satisfactory to the City Engineer, that he or she is the owner of record of the subject land parcel or parcels, or is the property owner's authorized agent. The City Engineer (or designee) shall have the authority to determine what document(s) the City will require to prove ownership, such as one of the following:

1. General warranty deed;
2. Special warranty deed;
3. Title policy; or
4. Some other documentation that is acceptable to the City Engineer (or designee).

If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, the City shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new development application, including the submission fees, for the property at any time following such denial.

### ***Section 2.3: Procedures and Submission Requirements for Preliminary Plat Approval***

- A. Upon reaching conclusions at the pre-application conference (as informally recommended in Section 2.1 above) regarding a general development program and objectives, the subdivider shall prepare a preliminary plat and preliminary construction information of the subdivision and other supplementary materials, as specified. Preliminary construction information shall include any documentation necessary to give the City a clear understanding of how the site will generally be served by required public services and facilities (e.g., water, sewer, roadway access, etc.). The preliminary plat shall be submitted to the City of Lufkin with the appropriate filing fee (as provided in the City's plat submission guidelines, as may be amended from time to time), and with a written application form at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant waives the 30-day review time in writing) prior to the Planning and Zoning Commission meeting at which it is to be considered. At the time the developer files a preliminary plat application with the City Engineer (or designee), a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.14, shall also be filed.
1. The preliminary plat shall be in accordance with the City's Zoning Ordinance (including the proper zoning for the intended use) and its Comprehensive Plan, including all other adopted plans including, but not limited to, the Water and Wastewater Master Plans, Future Land Use Plan, Park Master Plan, and Thoroughfare Plan. The preliminary plat shall be prepared by a registered/certified engineer, land planner or surveyor.

2. The preliminary plat shall reference distances and bearings to the City-designated monument system, wherever applicable. The City will provide monuments within one thousand feet (1,000') of the preliminary plat boundary.
- B. Copies of prints of the proposed subdivision drawn on sheets at a size of twenty-four inches by thirty inches (24" x 30"), and drawn to a scale of one hundred feet or fifty feet to the inch (1"=100' or 1"=50'), shall be submitted in the number of copies specified by the City (as provided in the City's plat submission guidelines, as may be amended from time to time). Digital files, completed in a format that is compatible with software used by the City such as CAD or GIS programs, of the proposed subdivision containing the same information as said drawings shall also be submitted. In cases of large developments which would exceed the dimensions of the sheet of one hundred foot (100') scale, preliminary plats may be on multiple sheets or may be two hundred feet to the inch (1"=200') or another known engineering scale, as approved by the City Engineer (or designee).
1. Preliminary plats which do not include the required data, number of copies and information will be considered incomplete, shall not be accepted for submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff. Additional copies of the preliminary plat may be required if revisions or corrections are necessary. A preliminary plat showing phasing of the development, shall include all contiguous property under the ownership or control of the applicant. It may contain more than one phase which, if so, shall be clearly identified.
- C. The subdivider may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the City may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats (including full construction plans and the appropriate assurances for the completion of all improvements), and provided that adequate review can be achieved by the City. If the City cannot review both plats (and other associated materials) within the twenty-eight (28) day review period, then only the preliminary plat shall be considered for approval and the final plat shall be denied unless the thirty (30) day review requirement is waived in writing by the applicant.
- D. Following review of the preliminary plat and other materials submitted in conformity with these regulations, and following discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be installed, the Planning and Zoning Commission shall act upon the preliminary plat as it was submitted, or as modified. If approved, the Commission shall state the conditions of such approval. If the Planning and Zoning Commission denies the application, and an appeal of the denial is filed within five (5) days, the City Council shall act upon the application within thirty (30) days following the Commission's denial.
1. The Planning and Zoning Commission (or City Council in the case of an appeal) shall only approve the actual plat drawing (i.e., the sheet(s) showing the actual plat for the subdivision, which will be filed at the County in "Final Plat" form), and the screening wall/landscaping plan(s) (as a separate agenda item) if the project/subdivision includes any required screening device (e.g., along major roadways or as required for screening/buffering the property from roads and/or adjacent properties). The construction (i.e., engineering) plans for the subdivision shall be submitted within one hundred and twenty (120) calendar days following approval of the preliminary plat, and shall be reviewed and approved by the City Engineer and/or other City staff, as deemed appropriate.

- E. Approval of a preliminary plat by the Planning and Zoning Commission, or by City Council in the case of an appeal, shall be deemed as tentative approval of the street and lot layout shown on the preliminary plat, and as authorization to proceed with preparation of the construction plans.
- F. If the Planning and Zoning Commission denies a preliminary plat application, the Commission shall state such disapproval and the reasons therefor. The plat application is not forwarded to City Council for consideration unless the applicant submits a written appeal within five (5) calendar days following the Commission's decision. The City Council shall take action within thirty (30) days following the Planning and Zoning Commission's action. The City Council may affirm, modify or reverse (i.e., override) the decision of the Commission, or it may, where appropriate, remand the preliminary plat back to the Commission for further proceedings consistent with the City Council's direction.
- G. Standards for Approval. No preliminary plat shall be approved by the Planning and Zoning Commission unless the following standards have been met:
  - 1. The plat substantially conforms with any approved studies and plans, as applicable.
  - 2. The preliminary layouts for required public improvements and City utilities are in conformance with City codes and policies.
  - 3. The plat conforms to applicable zoning and other regulations.
- H. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the engineering/construction plans by the City Engineer. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the preliminary plat and stating any requirements (including easements) they may have. This requirement may be deferred until the final plat is submitted if such deferral is approved by the City Engineer. No excavation, including grading and clearing of vegetation, shall occur without meeting appropriate City, State (TCEQ) and Federal (SWPPP) erosion protection measures.
- I. The required copies or prints (as determined by the City) of the proposed preliminary plat and construction (i.e., engineering) plans shall show the following:
  - 1. A vicinity or location map that delineates the location of the proposed preliminary plat in the City;
  - 2. Boundary lines, abstract lines, corporate boundaries, existing or proposed highways and streets, bearings and distances sufficient to locate the exact area proposed for the subdivision;
  - 3. The name, location and recording information of all adjoining subdivisions (or property owners of unplatted property) shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;
  - 4. The location and widths of all streets, alleys and easements, existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be



- submitted for all new streets (street name approval is required at the time the preliminary plat is approved);
5. The location of all existing property lines, existing lot and block numbers and date recorded;
  6. Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same;
  7. The title under which the proposed subdivision is to be recorded, the name and address of the owner with the name of the planner, engineer or registered public surveyor preparing the drawing; the subdivision name shall not be duplicated, but phasing identification is allowed (the City shall determine if the proposed subdivision identification will be in conflict with existing plats);
  8. Sites, if any, to be reserved or dedicated for parks, schools, playgrounds or other public uses;
  9. Scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent data;
  10. Where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; City staff shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project. All preliminary plats shall be submitted in a legible format on a good grade blue line or black line paper;
  11. The following City approval signature block, owner's acknowledgment block, and surveyor's certificate shall be placed in the lower right-hand corner of the page (above the title block) of each preliminary plat by the developer. In the event that a preliminary plat is denied or approved conditionally by the Planning and Zoning Commission and is then appealed to the City Council and approved by the Council, the signature block shall be changed to read "Approved by City Council" in the place of "Approved by Planning and Zoning Commission".

***City Approval of Preliminary Plat***

Approved for preparation of the final plat:

\_\_\_\_\_  
*Approved by the Planning and Zoning Commission*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Attest – City Secretary*

\_\_\_\_\_  
*Date*

Note: If the plat is appealed to the City Council it shall be referenced as City Council approval if it is eventually approved by the City Council based on an appeal.

***Owner's Acknowledgment***

I hereby acknowledge this document as the officially approved preliminary plat:

\_\_\_\_\_  
*Owner's Signature*

\_\_\_\_\_  
*Date*

***Surveyor's Certificate***

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon as set were properly placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Lufkin.

\_\_\_\_\_  
*Registered Professional Land Surveyor*

- J. **Engineering/Construction Plans.** After preliminary plat application, the developer shall submit the required copies of the complete engineering construction and grading plans of streets, alleys, storm sewers and drainage structures, water and sanitary sewer improvements, and any required screening walls/landscaping for the area covered by the preliminary plat. Cost estimates shall also be submitted with the construction plans. Three (3) sets of construction plans marked "approved" and a signed approval letter from the City must be on file at the City prior to construction commencement. A grading plan showing how the grading of each lot relates to the overall grading plan for the plat under consideration shall be submitted with the construction plans. A drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted with the construction plans. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan. The developer shall have these plans prepared by their own professional engineers subject to approval of the plans by the City of Lufkin. The City Engineer (or designee) shall review or cause to be reviewed, the plans and specifications and if approved, shall mark them approved and return one set to the developer. If not approved, one set shall be marked with the objections noted and returned to the applicant or developer for correction. The subdivider shall provide additional sets of corrected engineering plans as specified by the City Engineer for use during construction. City review and approval of the engineering construction plans shall not excuse the developer from compliance with these regulations if deficiencies are discovered during construction or the one year warranty period.
1. After approval of the preliminary plat, construction plans and specifications by the City of Lufkin, the developer shall cause a contractor to install the facilities in accordance with the approved plans and standard specifications of the City and at the developer's expense (also see Section 6). The developer shall employ engineers, surveyors and other professionals as necessary to design, stake and observe the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with these regulations.
  2. Construction 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 and in accordance with this Ordinance and the Technical Construction Standards & Specifications

- (TCSS) Manual. Construction plans submitted for review by the City shall be dated and shall bear the responsible engineer's registration number, and the designation of "professional engineer" or "P.E.", and the engineer's seal. Construction plans meeting all of the requirements of this Ordinance and the TCSS Manual shall be approved by the City Engineer (or designee) within forty-five (45) days of a complete submittal.
3. Engineering and construction plans shall be in conformance with the Technical Construction Standards & Specifications (TCSS) Manual and the requirements set forth herein. Engineering construction plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, perimeter sidewalks, landscape plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 40 or 50 feet (1" = 40' or 50') horizontally and one inch equals 4, 5, or 10 feet (1" = 4', 5' or 10') vertically shall be submitted to the City Engineer (or designee) along with the preliminary plat of the subdivision. A minimum of three (3) copies of the construction plans shall be submitted to the Engineering Department.
  4. The location of all existing property lines, existing lot and block numbers and date recorded, buildings, existing sewer or water mains, gas mains or other underground structures, easements of record or other existing features within the area proposed for subdivision.
  5. Contours with intervals of five feet (5') or less shown for the area (unless, due to some unique aspect of the subject property, the City Engineer requires a two-foot (2') contour interval) with all elevations on the contour map referenced to sea level datum; the City may have contour maps that may be used on such plats and plans;
  6. Areas contributing drainage to the proposed subdivision shall be shown in the construction (i.e., engineering) plans or reports; locations proposed for drainage discharge from the site shall be shown by directional arrows;
  7. All physical features of the property to be subdivided shall be shown in the construction (i.e., engineering) plans, including the location and size of all water courses, 100-year flood plain according to Federal Emergency Management Agency (FEMA) information, Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions, the outline of major wooded areas or the location of major or important individual trees, and other features pertinent to subdivision;
  8. Engineering construction plans of water and sewer lines and other infrastructure (including sizes) to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated.
- K. Effect of Approval. Approval of a preliminary plat and construction plans authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to commence construction of all required improvements (or submission of the proper assurances for construction of same, per Section 6), to submit an application for final plat approval.
- L. Expiration of Plats and Reinstatement Procedure.
1. Approval of a preliminary plat shall be effective for three (3) years and all undeveloped areas within the preliminary plat boundary shall lapse unless reviewed by the Planning and Zoning Commission in light of new or significant information which would necessitate the revision

of the preliminary plat. If no development or change in requirements has occurred which would affect the proposed plat at the end of the three-year period, the Planning and Zoning Commission may, at the request of the applicant and upon a recommendation by City staff, extend its approval another year without the submission of a new preliminary plat by re-approving the original preliminary plat. No filing fee is required for such re-approval. If no request for re-approval is made by the developer or property owner prior to the three-year preliminary plat anniversary date, then the entire preliminary plat shall be deemed expired and shall be null and void.

- a. The engineering construction plans shall also be valid as long as the preliminary plat is valid after approval of the plans by the City.
2. Prior to the lapse of approval of a preliminary plat, the property owner may petition the City to extend approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission, and an extension may be granted by the Commission at such public meeting.
3. In determining whether to grant such a request, the Planning and Zoning 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, and the extent to which newly adopted subdivision regulations shall apply to the plat. The Commission shall extend the preliminary plat, or deny the request, in which instance the property owner must submit a new application for approval or may appeal the Commission's decision to the City Council. An appeal shall be filed within five (5) days and the City Council shall act upon the application within thirty (30) days following the Commission's action.
4. The Commission may extend the approval for a specific time period, subject to additional conditions based upon newly enacted regulations, or such as are necessary to ensure compliance with the original conditions of approval.

**M. Timing of Public Improvements.**

1. The Planning and Zoning Commission may permit all or some of the public improvements to be installed, offered for dedication, and/or accepted by the City after approval of the final plat by the City. Also see Section 6.
  - a. The Commission may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) must be approved by the City at the time of preliminary plat approval, and the necessary assurances for completion of the improvements (in accordance with Section 6) shall be a stipulation (i.e., condition) of approval of the preliminary plat.
2. If the Commission does not require that all public improvements be installed, offered for dedication and/or accepted by the City prior to approval of the final plat, it shall require that the applicant provide assurances/security for the completion of the improvements, as provided in Section 6.



## ***Section 2.4: Procedures and Submission Requirements for Final Plat Approval***

- A. The final plat shall be in accordance with the preliminary plat, as approved, and shall reflect/ incorporate all applicable conditions, changes, directions and additions imposed by the Planning and Zoning Commission upon the preliminary plat. The final plat shall not be approved by the City until all utilities, infrastructure, and other required improvements have been constructed according to the engineering/construction plans, as approved by the City Engineer, unless provisions are made for the completion of the improvements in accordance with Section 6. The final plat shall not be submitted prior to approval of the preliminary plat (see Section 2.3 for exception). At the time the developer files a final plat application with the City Engineer (or designee), he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.14.
- B. The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record provided, however, that such portion conforms to all the requirements of these regulations.
- C. The required number of copies of the proposed final plat shall be submitted at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant waives the 30-day review time in writing) before the Planning and Zoning Commission meeting at which it shall be considered, accompanied by an application form and an application fee (per the City's plat submission guidelines, as may be amended from time to time). The City Engineer (or designee) shall check the plat to ascertain its compliance with these regulations and shall report to the applicant. If revisions are necessary, the applicant, developer or his engineer shall submit additional corrected copies of the properly completed final plat to the City Engineer (or designee), along with a written request for a 30-day extension of the review period (thereby waiving the State-mandated 30-day review time for plats). If the written request for a 30-day extension is not submitted, then the plat will be recommended for denial. Failure to submit corrected copies back to the City in time shall be reason to determine the submittal as incomplete and as reason to not schedule the final plat on the Commission's agenda. The final plat application will thereupon be returned to the applicant with the reasons stated as to why the plat is incomplete. A minimum of three (3) review copies of the Final plat shall be submitted to the Engineering Department. Once the review process is complete a minimum of five (5) copies of the final plat shall be submitted to the Engineering Department.
  1. The Planning and Zoning Commission shall recommend approval or denial of the final plat within thirty (30) days of the official submission date (unless waived in writing by the applicant). If the Planning and Zoning Commission denies the application, and an appeal of the denial is filed within five (5) days, the City Council shall act upon the application within thirty (30) days following the Commission's denial. After the final plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the thirty (30) day approval requirement. After receipt of the request, the City may delay approval of the final plat beyond thirty (30) days of the submission date. A certificate of approval of the Planning and Zoning Commission, attested by the Chairperson of the Planning and Zoning Commission and the City Secretary, as provided herein, shall be attached on the plat when such final plat has been approved. If the City Council approves the final plat after an appeal

has been made, the certificate of approval shall be attested by the Mayor or Mayor Pro-Tem instead of the Planning and Zoning Commission Chairperson.

2. The developer and/or applicant shall return copies of the final plat, as approved, with any other required documents and necessary fees attached thereto to the City Engineer (or designee) within thirty (30) days, in accordance with requirements established by the City. All easements shall be included as required by utility companies and/or the City of Lufkin prior to filing, and a copy of letters from each applicable utility company shall be submitted to the City Engineer (or designee) stating that the plat contains the proper easements. Mylars, reductions and blueline copies as required by the County Clerk of Angelina County, in addition to mylar copies and a computer disk or email containing the digital plat file(s) required by the City, shall be returned to the City Engineering Department with the required fees. If the required copies and materials are not returned to the City within the specified time, the City approval of the final plat shall be null and void unless an extension is granted by the Planning and Zoning Commission. The City Engineer (or designee) shall file the final plat within ninety (90) days at the office of the County Clerk of Angelina County.
- D. The final plat (and any replats) shall be prepared by a registered professional land surveyor (RPLS).
- E. When all of the improvements are found to be installed in accordance with the approved plans and specifications, and after the improvements have been completed, and upon receipt by the City of Lufkin of a maintenance bond or certificate of deposit in accordance with Section 6 of this Ordinance from each contractor, three (3) sets of "As-Built" (or "Record Drawing") plans and one (1) set of "As-Built" or "Record Drawing" mylars, blueline copies, and computer disk(s) containing the digital construction plan(s), as required by the City, shall be submitted with a letter stating the contractor's compliance with these regulations. After such letter is received, the City Engineer (or designee) shall receive and accept for the City of Lufkin the title, use and maintenance of the improvements according to Section 6.6. The final plat shall not be approved prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the City.

## ***Section 2.5: Final Plats (Information & Format Requirements)***

- A. All final plats shall be submitted on sheets that are twenty-four inches by thirty inches (24" x 30"), and to a scale of not less than one hundred feet to the inch (1"=100') or larger unless authorized by City Engineer or Designee. It shall be the applicant's responsibility to be familiar with, and to comply with, all County filing requirements. Where more than one sheet is required to encompass the subdivision, an index sheet shall be included showing the entire subdivision together with the complete dedication, attests, dates, titles and seals, on one (1) sheet. Each individual sheet of the final plat shall bear the signature and seal of the surveyor and/or engineer who prepared the plat.
- B. All final plats shall reference distances and bearings to the City-designated monument system, wherever applicable. The City of Lufkin will establish a benchmark referencing a city gps monument within 1000 feet of the proposed subdivision.
- C. The exterior boundary of the subdivision shall be indicated by a distinct bold solid line, and corner markers by individual symbols with the appropriate identification of each.



- D. The length and bearing of all straight lines, radii, arc lengths, tangent length and central angles of all curves shall be indicated along the lines of each lot in addition to lot and block numbers. The curve data pertaining to block or lot boundary may be placed in a curve table.
- E. The names of all adjoining subdivisions, the dimensions of all abutting lots, lot and block numbers and accurate reference ties to courses and distances of at least one recognized abstract line or existing subdivision corner shall be shown. A location map drawn to scale shall also be shown. A listing of the lots and their correlating lot areas in square feet shall be provided.
- F. The names and accurate location and right-of-way widths of all adjacent streets.
- G. The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision shall be shown. It shall be the applicant's responsibility to coordinate with appropriate utility companies for placement of utility easements.
- H. The description and location of all survey monuments placed in the addition or subdivision shall be shown (see Section 5.2 for specifications).
- I. The final plat shall show a title block in the lower right corner of the page, the words "Final Plat", the name of the addition or subdivision, the name of the owner and engineer or surveyor, the scale and location of the subdivision, north point and reference to original land grant or survey and abstract number. The final plat shall provide a place for the County Clerk of Angelina County to stamp the number of the cabinet, drawer or area where the plat will be filed, and a place for the date in the lower left-hand corner at least 2" x 2" in size.
- J. Finished floor elevations of building foundations shall be shown for lots adjacent to a flood plain, floodway and/or an area that may be susceptible to flooding.
- K. Certificates shall be on the final subdivision plat and shall contain a minimum of the following information:
  - 1. A statement that the subdivided area is legally owned by the applicant.
  - 2. An accurate legal description by the line deflection, necessary curve data, and line distance of all lines bounding the property with descriptions correlated to a permanent survey monument.
  - 3. A statement signed by the owner and acknowledged before a Notary Public as to the authenticity of the signatures, saying that the owner adopts the plat as shown, described and named, and that they do dedicate to the public use forever the streets and alleys shown on the plat. The owner further reserves any easement areas shown for mutual use of all public utilities desiring to use the same. Any public utility shall have the right to remove and keep removed all or any part of any vegetative growth for construction or maintenance, or efficiency of its respective system in these easements and all or any part of, any growth or construction which in any way hinders or interferes with the right of ingress and egress to these easements for any necessary use without asking anyone's permission.
  - 4. The registered public surveyor's certificate, with a place for signatures.
  - 5. A place for plat approval signature of the Planning and Zoning Commission Chairperson, a place for the City Secretary to attest such signature, and the date of approval by the Planning and Zoning Commission; in the case of a plat that has been approved by the City Council



after an appeal has been made, a place for plat approval signature of the Mayor or Mayor Pro-Tem, a place for the City Secretary to attest such signature, and the date of approval by the City Council.

6. Following are examples of the information required on the final plat which meet the above requirements:

a. ***Owner's Certificate*** (required):

STATE OF TEXAS       §  
COUNTY OF ANGELINA       §

WHEREAS, John Doe and Jane Doe are the Owners of a tract of land situated in the WXYZ Survey, Abstract No. 000, Angelina County, Texas and being out of a 000.00 acre tract conveyed to them by Joe Smith and Tom Smith, and a 000.00 acre tract conveyed to them by John Smith and being more particularly described as follows:

*(Enter accurate metes and bounds property description here)*

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ acting herein by and through its duly authorized officers, does hereby adopt this plat designating the herein above described property as \_\_\_\_\_, an addition to the City of Lufkin, Texas, and does hereby dedicate, in fee simple, to the public use forever, the streets and alleys shown thereon. The streets and alleys are dedicated for street purposes. The Easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the Easements as shown, except that landscape improvements may be placed in Landscape Easements, if approved by the City of Lufkin. In addition, Utility Easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the Public's and City of Lufkin's use thereof. The City of Lufkin and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said Easements. The City of Lufkin and public utility entities shall at all times have the full right of Ingress and Egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Lufkin, Texas



WITNESS, my hand, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BY:

\_\_\_\_\_  
*Authorized Signature of Owner*

\_\_\_\_\_  
*Printed Name and Title*

STATE OF TEXAS           §  
 COUNTY OF ANGELINA   §

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared \_\_\_\_\_, Owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

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

\_\_\_\_\_  
*Notary Public in and for the State of Texas*

\_\_\_\_\_  
*Date Commission Expires*

b. ***Surveyor's Certificate*** (required):

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon as set were properly placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Lufkin.

(seal)

\_\_\_\_\_  
*Registered Professional Land Surveyor*

- c. In the event that a final plat is denied or approved conditionally by the Planning and Zoning Commission and is then appealed to the City Council and approved by the Council, the signature block shall be changed to read "City Council" in the place of "Planning and Zoning Commission" and "Mayor or Mayor Pro-Tem" in the place of "Chairperson". ***Approval Block*** (required):

APPROVED BY:           PLANNING AND ZONING COMMISSION  
                                   CITY OF LUFKIN

By:

\_\_\_\_\_  
*Chairperson*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Attest – City Secretary*

\_\_\_\_\_  
*Date*

d. **Visibility, Access and Maintenance Easements** (if applicable):

- (1) The area or areas shown on the plat as "VAM" (Visibility, Access and Maintenance) Easement(s) are hereby given and granted to the City, its successors and assigns, as an easement to provide visibility, right of access for maintenance upon and across said VAM Easement. The City shall have the right but not the obligation to maintain any and all landscaping within the VAM Easement. Should the City exercise this maintenance right, then it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The City may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM Easement shall rest with the owners. No building, fence, shrub, tree or other improvements or growths, which in any way may endanger or interfere with the visibility, shall be constructed in, on, over or across the VAM Easement. The City shall also have the right but not the obligation to add any landscape improvements to the VAM Easement, to erect any traffic control devices or signs on the VAM Easement and to remove any obstruction thereon. The City, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

e. **Access Easements** (if applicable):

- (1) The undersigned does covenant and agree that the Access Easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of General Public vehicular and pedestrian use and access, and for Fire Department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the City of Lufkin, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

## **Section 2.6: Replatting**

- A. **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 final platting of land by these regulations. All improvements shall be constructed in accordance with the same requirements as for a preliminary or final plat, as provided herein. The City Engineer (or designee) may waive or modify requirements for a preliminary plat under circumstances where the previously approved preliminary plat is sufficient to achieve the purposes set forth in this Ordinance.
- B. **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:
  1. Is signed and acknowledged by only the owners of the property being replatted;



2. Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the Planning and Zoning Commission; and
  3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.
- C. Previous Requirements or Conditions of Approval Which Are Still Valid. In addition to compliance with B above, a replat without vacation of the preceding plat must conform to the requirements of this section if:
1. During the preceding five (5) 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 (2) residential units per lot; or
  2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
  3. Notice of the public hearing required under B above shall be given before the fifteenth (15th) day before the date of the public hearing by the Planning and Zoning Commission by publication in an official newspaper or a newspaper of general circulation in Angelina County. Notice of the public hearing shall also be given by written notice, with a copy of any requested waivers/suspensions, sent to the owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within two hundred (200) feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved County tax roll shall be used. 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. If the replat is denied by the Planning and Zoning Commission and appealed to the City Council, no public hearing is required at the City Council.
  4. If the owners of twenty percent (20%) or more of the owners of the area of lots to whom notice is required to be given under Subsection C.3 above file with the City a written protest of the replatting before or at the public hearing, and if the replat requires a waiver/suspension as defined in Section 1.11, then approval of the replat will require the affirmative vote of at least three-fourths (3/4) of the Planning and Zoning Commission members present. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the "20% rule" described above, the area of streets and alleys shall be included.
  5. Compliance with Subsection C.4 above is not required for approval of a replat or 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.
  6. Replats shall clearly show the area which is replatted.
    - a. Any replat which adds or deletes lots must include the original subdivision and lot boundaries.



- b. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed. The original parcel, tract or lot line shall be differentiated or illustrated on the replat.
7. If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, a public hearing is not required for a replat of the area vacated.
8. The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.
9. The title shall identify the document as "\_\_\_\_\_ Addition, Block \_\_\_\_\_, Lot(s) \_\_\_\_\_, Being a Replat of Block \_\_\_\_\_, Lot(s) \_\_\_\_\_ of the \_\_\_\_\_ Addition, an addition to the City of Lufkin, Texas, as recorded in Volume/Cabinet \_\_\_\_\_, Page/Slide \_\_\_\_\_ of the Plat Records of Angelina County, Texas".
10. An application submittal for a replat shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.14.
11. The replat shall be filed at the County in the same manner as prescribed for a final plat.

## ***Section 2.7: Not Currently Used.***

## ***Section 2.8: Amending Plats***

- A. An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.14.
- B. The City Engineer (or designee) and the Director of Planning (or designee) may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this Section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:
  1. Correct an error in a course or distance shown on the preceding plat;
  2. Add a course or distance that was omitted on the preceding plat;
  3. Correct an error in a real property description shown on the preceding plat;
  4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;





5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
  6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
  7. Correct an error in courses and distances of lot lines between two adjacent lots if:
    - a. Both lot owners join in the application for amending the plat;
    - b. Neither lot is abolished;
    - c. The amendment does not attempt to remove recorded covenants or restrictions; and
    - d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;
  8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
  9. Relocate one or more lot lines between one or more adjacent lots if:
    - a. The owners of all those lots join in the application for amending the plat;
    - b. The amendment does not attempt to remove recorded covenants or restrictions; and
    - c. The amendment does not increase the number of lots; or
  10. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
    - a. The changes do not affect applicable zoning and other regulations of the City;
    - b. The changes do not attempt to amend or remove any covenants or restrictions; and
    - c. The area covered by the changes is located in an area that the City has approved, after a public hearing, as a residential improvement area.
- C. Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- D. The amended plat shall be entitled and clearly state that it is an "amended plat." It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- E. Other than noted above, the procedure for approval of plat amendment(s) shall be the same as in Section 2.7.
- F. The amended plat shall be filed at the County in the same manner as prescribed for a final plat.

## ***Section 2.9: Plat Vacation***

- A. By Property Owner. The property owner of the tract covered by a plat may vacate, upon the approval of the Planning and Zoning Commission, the plat at any time before any lot in the plat is sold. 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.
- B. By All Lot Owners. If some or all of the lots covered by 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.
- C. Criteria. The Planning and Zoning Commission shall approve the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code, and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the Planning and Zoning Commission may direct the petitioners to prepare a revised final plat in accordance with these regulations such that the property does not become "unplatted".
- D. Effect of Action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Planning and Zoning 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 Planning and Zoning Commission. An appeal of the Commission's action may be made to the City Council; such an appeal shall be filed within five (5) days and the City Council shall act upon the application within thirty (30) days following the Commission's action.
- E. City-Initiated Plat Vacation.
  - 1. General Conditions. Upon an individual affirmative vote of both the Planning and Zoning Commission and City Council the City may vacate the plat of an approved subdivision or addition when:
    - a. No lots within the approved plat have been sold within five (5) years from the date that the plat was signed by the City;
    - b. The property owner has breached an improvement agreement 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 property owner or its successor; or
    - c. The plat has been of record for more than five (5) years and the City determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and/or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
  - 2. Procedure. Upon any consideration of the Planning and Zoning Commission or City Council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the City shall publish notice in the official City newspaper of general circulation, and shall also notify the property owner(s) within the boundaries of the plat proposed to be vacated. The notice shall state the time and place for a public hearing on the motion to vacate the



subdivision or addition plat. The Commission shall recommend approval and the City Council shall approve the vacation only if the criteria and conditions cited above are satisfied.

3. Record of Notice. If the Commission and City Council approve vacating a plat, the City Secretary shall record a copy of the resolution or ordinance in the office of the County Clerk of Angelina County with a copy of the area or plat vacated. The County Clerk shall write legibly on the vacated plat the word "vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the Commission and City Council adopt a resolution or ordinance vacating a plat 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. On the execution and recording of the vacating instrument the vacated plat has no effect.

### ***Section 2.10: Minor Plats***

- A. A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.14.
- B. The City Engineer (or designee) and Director of Planning (or designee) may approve a minor plat, or may, for any reason, elect to present the minor plat to the Planning and Zoning Commission and/or City Council for consideration and approval. Any decision made on the minor plat by the City Engineer (or designee) and Director of Planning (or designee) shall be approval of the plat. Should the City Engineer (or designee) and Director of Planning (or designee) refuse to approve the minor plat, then the plat shall be referred to the Planning and Zoning Commission for consideration within the time period required by State law.
- C. Notice, a public hearing, and the approval of other lot owners are not required for the approval a minor plat.
- D. The minor plat shall be entitled and clearly state that it is a "minor plat".
- E. The minor plat shall be filed at the County in the same manner as prescribed for a final plat.
- F. When an existing non-platted parcel, of one acre or larger, is divided from a parent tract of ten acres or more, the owner of the tract is required to prepare a one lot subdivision plat. This is permitted one time only.

### III. SUBDIVISION DESIGN STANDARDS

#### *Section 3.1: Streets*

- A. The arrangement, character, extent, width, grade and location of all streets shall conform to the City of Lufkin's Thoroughfare Plan and the TCSS Manual, and shall be considered in their relation to existing and planned streets or driveways, to topographical conditions, to public safety and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes or which will not be taxable or accessible for improvements shall not be permitted in any subdivision. All streets shall be constructed in accordance with Section 5 and with the TCSS Manual.
- B. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation and shall be properly related to the Thoroughfare Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All public streets shall be open and unobstructed at all times. For private streets, see Subsection c.9 below.
- C. Adequacy of Streets and Thoroughfares.
1. Responsibility for Adequacy of Streets and Thoroughfares. The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's participation in the costs subject to the City's oversize policy for oversize facilities.
  2. General Adequacy Policy. Every subdivision shall be served by streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation, and shall be properly related to the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each development.
  3. Road Network. New subdivisions shall be supported by a road network having adequate capacity, and safe and efficient traffic circulation.
  4. Approach Roads and Access. All subdivisions must be connected to the City's improved thoroughfare and street system by one or more approach roads of such dimensions and approved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending on the density or intensity of the proposed development, if such need is demonstrated by traffic impact analysis.
    - a. The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated street as required by applicable zoning (or if no such requirement exists,

minimum frontage of 30'), unless other provisions have been authorized through planned development approval.

5. Street Dedications.

- a. **Dedication of Right-of-Way and Road Improvements.** The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan or other valid development plans approved by Planning and Zoning Commission and/or City Council.

(1) Whenever an existing street has insufficient right-of-way to meet current standards for street widths, the owner or subdivider shall dedicate the necessary right-of-way along the common property line to provide for the street width standard. Generally, the amount of dedication will be equal to that which is required to equal one half (1/2) of the street width standard when measured from the centerline of the street. However the amount of right-of-way dedication shall ultimately be based on that which is necessary to maintain continuity with adjacent tracts or parcels and future right-of-way needs.

- b. **Perimeter Streets.** Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated and improved by the developer of the subdivision or addition.

- c. **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 be in excess of three feet (3') horizontal to one foot (1') vertical.

6. Street Construction. All streets and thoroughfares shall be constructed to City standards and in rights-of-way as required by the Thoroughfare Plan, in accordance with the TCSS Manual and/or other City standards as may be from time to time adopted.

7. Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis required by subsection (f). Construction and design standards shall be in accordance with City standards and the TCSS Manual.

8. Phased Development. Where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The Planning and Zoning Commission shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established and may require that a traffic impact analysis be submitted for the entire project or such phases as the Commission determined to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares. The Planning and Zoning Commission may require temporary improvements, as required for public safety, which will be removed upon construction of additional phases of development.

9. Private Streets. All private streets shall be designed and constructed in accordance with the City's standards for publicly dedicated streets. The term "private street" shall be inclusive of alleys, if such are to be provided within the subdivision.

- a. **Subdivision Eligibility Criteria.** Private streets shall be permitted only within a subdivision satisfying each of the following criteria:
- (1) No street shall be less than five hundred (500) feet in length;
  - (2) The streets to be restricted to private use are not intended for regional or local through traffic circulation (see subsection 3.1c.9.(b) below);
  - (3) The subdivision is not located adjacent to an existing or approved public street subdivision that can be reasonably connected, even though the street connection would require construction of a bridge or culvert -- the two subdivisions shall be connected as public street subdivisions;
  - (4) A mandatory property (homeowners) association, which includes all property to be served by the private streets, will be formed (see subsection 3.1c.9.(e) below); and
  - (5) The subdivision conforms to any other special guidelines for private street developments as may be approved separately by the Planning and Zoning Commission or City Council.
- b. **Streets Excluded.** Streets that are shown on the City's Thoroughfare Plan as collectors (Types "C" and "D") or arterials (Types "A" and "B") shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. Also, the Planning and Zoning Commission or City Council may deny the creation of any other private street if, in their sole judgment, the private street would:
- (1) Negatively affect traffic circulation on public streets, or
  - (2) Impair access to the subject or adjacent property; or
  - (3) Impair access to or from public facilities, including schools or parks; or
  - (4) Cause possible delays in the response time of emergency vehicles.
- c. **Access Onto Public Thoroughfare.** A private street subdivision shall provide a minimum of seventy feet (70') of access frontage on a public collector or arterial street for subdivision entrances; primary access into a private street subdivision shall be from a collector (Type "C" and "D"), as shown on the City's Thoroughfare Plan, or from a larger roadway. Restricted access entrances shall not be allowed from minor collectors (Type "D"), minor residential/local streets (Type "E"), rural streets (Type "F"), or from alleys. No more than two (2) gated street entrances may intersect a thoroughfare that is designated on the City's Thoroughfare Plan as "Type "D" or larger within any one (1) mile segment.
- d. **Parks and Greenbelts Excluded.** A private street subdivision shall not cross or interfere with an existing or future public pedestrian pathway, hike and bike trail, greenbelt or park as shown on the City of Lufkin's Park Master Plan.
- e. **Property (Homeowners) Association Required.** Subdivisions developed with private streets shall have a mandatory property owners association which includes all property served by the private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances. The association documents must establish a reserve fund for the maintenance of streets and other improvements. The association documents shall be reviewed and approved by the City Attorney to ensure that they conform to this and other applicable City rules and regulations. The documents shall be filed of record prior to final plat approval. Lot deeds must convey membership in the association, and must provide for the payment of dues and assessments required by



the association. The association may not be dissolved without the prior written consent of the City Council. No portion of the association documents pertaining to the maintenance of private streets and alleys, and assessments therefore, may be amended without the written consent of the City Council.

- f. **Private Street Lot.** Private streets must be constructed within a separate lot owned by the property owners association. This lot must conform to the City's standards for public street rights-of-way. An easement covering the street lot shall be granted to the City providing unrestricted access to and use of the property for any purpose deemed necessary by the City. This right shall also extend to all utility providers operating within the City. The easement shall also permit the City to remove any vehicle or obstacle within the street lot that may impair emergency access.
- g. **Construction and Maintenance Cost.** The City shall not pay for any portion of the cost of constructing or maintaining a private street.
- h. **Infrastructure/Utilities.** All water, sewer and drainage facilities, street lights, and traffic control devices (e.g., signs) placed within the private street lot shall be installed to City standards, and shall be dedicated to the City prior to filing the record plat for the subdivision. All private traffic control devices and regulatory signs shall conform to the "Texas Manual of Uniform Traffic Control Devices". All City regulations relating to infrastructure financing, developer cost participation, and capital cost recovery shall apply to developments with private streets.
  - (1) The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a single (or multiple) centralized location (i.e., no centralized "gang-box" style metering stations).
- i. **Plans and Inspections.** Development applications for subdivisions with private streets must include the same plans and engineering information required for public streets and utilities. City requirements pertaining to inspection and approval of improvements shall apply, and fees charged for these services shall also apply. The City may periodically inspect private streets, and may require any repairs necessary to ensure efficient emergency access and/or to protect the public health, safety, convenience and welfare.
- j. **Restricted Access.** The entrances to all private streets must be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained by the City. Guard houses, access control gates, and cross arms, if used, shall be constructed per subsection (k) below. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide an alternative means of ensuring access to the subdivision (preferably with an Opticom-type system for emergency access) by the City and other utility or public service providers (e.g., postal carriers, utility companies, etc.) with appropriate identification. If the association fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the association. The association documents shall contain provisions in conformity with this Section that may not be amended without the written consent of the City Council.
- k. **Access Restricted Entrance Design Standards.** Any private street which has an access control gate or cross arm must have a minimum uninterrupted pavement width of twenty-seven feet (27') at the location of the gate or access control device (both ingress and egress) regardless of the type of device used. If an overhead (e.g., lift-up) barrier is used, it must be a minimum of fourteen feet (14') in height above the road surface, and this

clearance height shall be extended for a minimum distance of fifty feet (50') in front of and behind the location of the device. All gates and cross arms must be of a break-away design. A minimum vehicle stacking distance of fifty feet (50') shall be provided from the right-of-way line of the public road from which the private street subdivision is accessed to the first vehicle stopping point, which is usually an access request keypad/telephone or guard's window. Adequate distance shall be provided between the access request point(s) and the entry barrier (e.g., gate) to accommodate a vehicle turn-around as described below.

(1) A paved turn-around space must be located in front of any restricted access entrance barrier (i.e., between the access request device and the barrier/gate) to allow vehicles that are denied access to safely exit onto public streets without having to back up (particularly into the public street upon which the entrance is located). The design and geometry (i.e., pavement width, inside radius, etc.) of such turn-around shall be such that it will accommodate smooth, single-motion U-turn movements by the following types of vehicles:

- (a) Larger passenger vehicles (e.g., vans, pick-up trucks, etc.);
- (b) Passenger vehicles with short trailers up to twenty-four feet (24') in length (e.g., small flatbed, camping or box-type trailers); and
- (c) The types of service and utility trucks that typically visit or make deliveries to neighborhoods that are similar to the proposed private street development (e.g., utility company vehicles, postal/UPS delivery trucks, two- to three-axle flatbed or box-type trucks used by contractors and moving companies, etc.).

City staff and/or the Planning and Zoning Commission may require submission of additional drawings, plans and/or exhibits demonstrating that the proposed turn-around will work and that vehicle turn-around movements will not compromise public safety on the entry roadway or on the adjacent public street(s). The design of all proposed access restricted entrances (i.e., a site plan) must be submitted for review and approval by the City Engineer, Police Department and Fire Department along with the construction plans for the subdivision prior to construction and approval of the final plat.

- l. **Waiver of Services.** The subdivision final plat, property deeds and property owners association documents shall note that certain City services shall not be provided for private street subdivisions. Among the services which will not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided.
- m. **Petition to Convert to Public Streets.** The property owners association documents shall allow the association to petition the City to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. However, in no event shall the City be obligated to accept said streets as public. Should the City elect to accept the streets as public, then the City has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets. The City shall be the sole judge of whether repairs are needed. The City may also require, at the association's expense, the removal of any guard houses, access control devices, landscaping and/or other aesthetic amenities located within the street lot. The association documents shall provide for the City's right to such removal and assessment.



Those portions of the association documents pertaining to the subject matter contained in this Section shall not be amended without the written consent of the City.

- n. **Hold Harmless.** On the subdivision final plat shall be language whereby the property owners association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any other governmental entity, and any public utility entity for damages to the private streets that may be occasioned by the reasonable use of the private streets by same, and for damages and injury (including death) arising from the condition of the private streets, out of any use of access gates or cross arms, or out of any use of the subdivision by the City or governmental/utility entity.

D. Escrow Policies and Procedures.

1. Request for Escrow. Whenever these regulations require a property owner to construct (including design, engineering and construction) a street or thoroughfare (or other type of public improvement), the property owner may petition the City to construct the street or thoroughfare in exchange for deposit of escrow as established in this section. If the property owner requests escrow in lieu of constructing more than one street or thoroughfare required to meet adequacy standards for roadways, the City may establish separate escrow accounts for such affected roadways, or may determine that some roadways should be constructed, while escrow should be accepted from others. The City Engineer (or designee) shall advise the Planning and Zoning Commission whether escrow is to be accepted in lieu of the obligation to construct a street or thoroughfare.
2. Deposit With the 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 equal to his share of the costs of design and construction in escrow with the City. Such amount shall be paid prior to release of construction plans by the City. The obligations and responsibilities of the property owner shall become those of property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.
3. Determination of Escrow Amount. The amount of the escrow shall be determined by the City Engineer using the average of several comparable bids that were awarded by the City in the preceding six (6) months or, if none exist, then in the preceding year or, if none exist, by using current costs of construction (including engineering design fees, contingencies, administrative fees, and related costs) as determined by an estimate by the City. Such determination shall be made as of the time the escrow is due hereunder.
4. Termination of Escrow. Escrows which have been placed with the City under this section which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall upon written request be returned to the property owner, with accrued interest.
5. Refund. If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the property owner or developer who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the

- owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
6. Interest Limitation. If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent (1%) less than the rate of actual earnings.
- E. Any preliminary plat or plat involving a significant change to a proposed roadway alignment from that shown on the City of Lufkin's Thoroughfare Plan may be required to be preceded by submission and approval of a traffic impact analysis as specified in Subsection F below.
- F. Traffic Impact Analysis. If the City Council or Planning and Zoning Commission requires a traffic impact analysis, the following elements shall be included:
1. General Site Description. The traffic impact analysis shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This description which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.
  2. Proposed Capital Improvements. The traffic impact analysis shall identify any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width and/or alignment of roadways affected by the proposed development.
  3. Roadway Impact Analysis.
    - a. **Transportation Impacts:**
      - (1) *Trip Generation.* The average weekday trip generation rates (trip ends), the average weekend trip generation rates (uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers, Trip Generation Manual; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the City Engineer of the City of Lufkin.
      - (2) *Trip Distribution.* The distribution of trips to arterial and collector roadways within the study area identified in subsection 3.1.F.1 (General Site Description) above shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing daily traffic volumes based on City traffic counts or traffic counts conducted by the

Texas Department of Transportation (TxDOT); projected daily traffic volumes; and existing traffic conditions identified pursuant to subsection 3.1.F.1 above.

**b. Adequacy Determination:**

- (1) The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service "C" or above.

**4. Intersection Analysis.**

**a. Level of Service Analysis:**

- (1) For intersections within the roadway traffic impact analysis study area described in subsection 3.1.F.1 herein, a level of service analysis shall be performed for all arterial/arterial, arterial/collector, collector/collector intersections and other intersections identified by City staff. Also, level of service analyses will be required on all proposed site driveway locations for all non-residential developments. The City may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

**b. Adequacy Analysis.**

- (1) The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.

**5. Effect of Adequacy Determination.**

- a. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in subsection 3.1f.1 herein that would cause the roadway to fall below the level of service required hereto, the proposed development shall be denied unless the developer agrees to one of the following conditions:
  - (1) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
  - (2) A reduction in the density or intensity of development;
  - (3) The dedication or construction of facilities needed to achieve the level of service required herein; or



- (4) Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.
- G. Arrangement of Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the City's Thoroughfare Plan (e.g., local residential streets), the arrangement of such streets within a subdivision shall:
1. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
  2. Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
  3. Provide for future access (i.e., provide stubbed streets for future extension) to adjacent vacant areas which will likely develop under a similar zoning classification;
  4. Not conflict in any way with existing or proposed driveway openings.
- H. Minor residential streets shall be laid out so that their use by through traffic will be discouraged, but access is provided to adjacent subdivisions.
- I. Where a subdivision abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection to residential properties and to afford separation of through and local traffic.
- J. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed by the City under conditions approved by the Planning and Zoning Commission and City Council.
- K. Intersecting, undivided streets with centerline offsets of less than one hundred twenty-five feet (125') shall be avoided. Intersecting streets onto a divided roadway must be configured such that the centerline offset will accommodate the appropriate left-turn lanes (with required transition and stacking distances) onto each of the two intersecting streets.
- L. Major thoroughfare intersections shall be at ninety degree (90°) angles and tangent to the intersecting street for at least fifty feet (50'). Other street intersections shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect at less than eighty degrees (80°).
- M. Street right-of-way widths shall be shown on the Thoroughfare Plan, and where not shown therein shall be shown in the TCSS manual. The City may approve rural type construction design (Type "F"), (i.e. without curb and gutter) for residential streets with a minimum right-of-way width of sixty feet where property has the zoning classification of "Residential Large" or "Agricultural" only, based upon a recommendation from the City Engineer and approval of the Planning and Zoning Commission.

- N. Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of these regulations and the Thoroughfare Plan, and where the City makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The City may also find that it would be more practical (and/or cost effective) to delay construction of the other half of a street when the adjoining property is developed.
- O. The maximum length of any block or street segment shall be one thousand two hundred feet (1,200'), as measured along the street centerline and between the point(s) of intersection with other through (i.e., not dead-end or cul-de-sac) streets.
- P. Except as provided in Subsection Q below, a residential cul-de-sac shall not exceed 1000 feet nor serve more than thirty (30) dwelling units. A non-residential cul-de-sac shall not exceed five hundred (500) feet. The closed end shall have a turn-around bulb with an outside pavement diameter of at least eighty (80) feet and a right-of-way diameter of at least one hundred (100) feet. The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac bulb.
- Q. Based upon a City staff recommendation, the Planning and Zoning Commission may approve waivers/suspensions for overlength streets and/or cul-de-sacs upon consideration of the following:
1. Alternative designs which would reduce street/cul-de-sac length;
  2. The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and
  3. Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.
- R. Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turn-around bulb (with an off-site easement, if necessary) is provided at the end. A dead-end street shall not exceed six hundred feet (600') in length, and the temporary turn-around bulb must be constructed like a cul-de-sac, as provided in subsection (p) above (the City Engineer may authorize the use of asphalt or other durable paving material than concrete for the arc portions of the temporary turn-around bulb in order to minimize the cost of removing those portions later on). A note shall be placed on the final plat clearly labeling any dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub (on the barricade) also stating that the street will be extended in the future.
- S. New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets.
- T. Construction of New Streets. All new streets dedicated within a subdivision shall be constructed in accordance with paving widths and specifications as set forth in the TCSS Manual of the City

of Lufkin at the time at which the final plat is approved, and crosswalks and barrier-free ramps shall be provided and designed in accordance with ADA requirements.

- U. Points of Access. All residential developments shall provide no less than one (1) entrance for every one hundred (100) lots, or portion thereof. Dead end stubbed streets that will eventually provide connections into adjacent future developments and then to an existing arterial or collector street may be considered as providing the required access. Subdivisions with four hundred (400) or more lots may submit a traffic impact analysis showing that additional entrances are not needed for future traffic generation levels. Based upon recommendations of the traffic impact analysis, the City Engineer may waive the requirement for additional entrances into the subdivision.
- V. Streets will be constructed in accordance to the TCSS Manual that is in effect at the time of subdivision construction.

### ***Section 3.2: Alleys***

- A. Alleys shall be optional. If alleys are provided, they shall be designed in accordance with the TCSS Manual.
- B. Residential alleys shall not be required except to connect to a subdivision with existing alleys for the purpose of providing continuity. If alleys are constructed or required, the following standards shall be met:
  - 1. In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall be designed in accordance with the TCSS Manual.
  - 2. Alleys shall be paved in accordance with the City of Lufkin TCSS Manual that is in effect at the time of subdivision construction.
  - 3. Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the TCSS Manual.
  - 4. Dead-end or "hammerhead" alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turn-around bulb or turnout onto a street (either of which will need a temporary easement for street/alley purposes) shall be provided as determined by the City Engineer.
  - 5. Alleys may not exceed a maximum length of one thousand two hundred feet (1,200'), as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The Planning and Zoning Commission and/or City Council may approve waivers/suspensions for overlength alleys upon consideration of the following:
    - a. Alternative designs which would reduce alley length;
    - b. The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and

- c. Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.

### ***Section 3.3: Easements***

- A. Easements across lots or centered along rear or side lot lines shall be provided for utilities where necessary, and shall be of such widths as may be reasonably necessary for the utility or utilities using same. A minimum utility easement fifteen feet (15') wide or wider, as determined by the City Engineer, or any applicable utility company on both sides of the street adjacent to all street rights-of-way shall be provided for gas, electric, and other utilities approved by the City. It shall be the subdivider's responsibility to determine appropriate easement widths as required by other utility companies. All easements shall be accessible by the City and/or by other applicable utility companies, and accessibility shall be in conformance with the City's (and/or the other utility company's) policies regarding same.
- B. Where a subdivision is traversed by a watercourse, drainageway, or channel, there shall be provided a storm water easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the City Engineer (or designee), subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA). Parallel streets or parkways may be required adjacent to certain portions of creek or drainageways to provide maintenance access or access to recreation areas (see Section 4). City approved utilities are permitted within the drainage easement.
- C. A minimum ten-foot-wide (10'-wide) drainage and utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.
- D. For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity, for which they are being provided. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement, which is dedicated to the City for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City for emergency access purposes; an electrical, gas, telephone or cable television easement, which is dedicated to the specific utility provider that requires the easement; and so on.

### ***Section 3.4: Blocks***

- A. The length, width and shapes of blocks shall be determined with due regard to:
  - 1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - 2. Zoning requirements as to lot sizes, setbacks and dimensions.
  - 3. Needs for convenient access, circulation, control and safety of street traffic.
- B. In general, intersecting streets, determining the blocks' lengths and widths, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to meet

existing streets or customary subdivision practices. Where no existing subdivision controls, the block lengths shall not exceed one thousand two hundred feet (1,200') in length. Where no existing subdivision controls, the blocks shall not be less than five hundred feet (500') in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

### ***Section 3.5: Lots***

- A. Lots shall conform to the minimum requirements of the established zoning district.
- B. Each lot shall front onto a dedicated, improved public street. Lot width and access shall conform with the provisions of the City of Lufkin's Thoroughfare Plan. Lot access onto arterial and collector streets is subject to approval by the City Engineer (or designee), who may require a traffic study or other data/information prior to approval of the preliminary plat in order to fully study all access issues. In all cases, lots shall have a minimum of thirty feet (30') of frontage along a dedicated, improved street.
- C. Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district. Also, the rear width shall be sufficient to provide access for all necessary utilities, including garbage collection when alleys are present.
- D. Side lot lines shall be generally at right angles or radial to street lines.
- E. Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials as defined in Section 3.1 or to overcome specific disadvantage to topography and orientation. Where lots have double frontage, building setback lines shall be established for each street side. Screening shall be provided in accordance with Section 5.7.
- F. Flag Lots
  - 1. Applicants considering use of a flag lot shall meet with staff prior to the design of the subdivision to determine if a flag lot is appropriate.
  - 2. Flag lots shall be limited to sites with unusual conditions in topography (drainage, slope, grade, or geological informality), shape (meaning the lot is irregularly shaped and not based on standard angles forming square or rectangular designs), or size (in circumstances where there is not adequate building area due to existing easements or insufficient leftover land).
  - 3. Applications for plats utilizing flag lots shall be received by Staff, recommended for approval or disapproval by Staff and the Planning and Zoning Commission and approved or disapproved by Council when the plat is within 200 feet of an established neighborhood of predominantly single-family or duplex homes. An established neighborhood is an area containing 75% completed structures in which there are homogenous grouping of individuals, buildings or businesses within a larger community. The groupings may be separated from each other by physical barriers or invisible boundaries. Neighborhood associations identified by the Lufkin Community Police section shall be accepted as an established neighborhood for the purpose of this standard.



4. Flag lots shall not be created as a substitute for construction of a city street. The Developer shall have the burden of proofing the appropriateness of a flag lot when the City Engineer or the Director of Planning recommends construction of a street to provide access to individual lots and city services.
5. Driveway construction plans may be required by the City Engineer to demonstrate adequate ingress and egress (for emergency vehicles) in a proposed development with a flag lot. The applicant shall submit plan profiles for the driveways if requested by the City when the adequacy of lot access is questioned.
6. In areas developed predominately residential (75% or more residentially zoned land within 200 feet of the proposed flag lot), access from a city street to a flag lot shall be on land which is owned in fee simple by the owner of said flag lot. The access stem of a flag lot shall be limited to the exclusive use of that attached flag lot and shall not be used for access to another lot.
7. In areas developed predominately as commercial (75% or more non-residentially zoned land within 200 feet of the proposed flag lot), access from a city street to a flag lot may be provided for joint use to adjacent lots to limit street accesses along a commercial street. The City Engineer and Planning Director shall evaluate a proposed joint access utilizing a flag lot stem to insure adequate access is provided for all users.
8. No portion of an access stem shall be included in computing the required lot area for a flag lot for zoning purposes.

### ***Section 3.6: Building Lines***

- A. Front building lines shall be shown on the preliminary and final plat for all lots having street frontage, and shall be consistent with the Zoning Ordinance requirements for the district in which the development is located.

### ***Section 3.7: Utility Services (not provided by the City of Lufkin)***

- A. For purposes of this section, the following meanings shall apply:
  1. Utility services. The facilities of any person, firm or corporation providing electric, telephone, cable television, water service, gas or any other such item or service for public use approved but not provided by the City of Lufkin.
  2. Lateral lines. Those utility lines used to distribute service from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.
  3. Service lines. Those utility lines used to connect between the utilities' supply system or lateral lines and the end users meter box.
- B. All subdivision plats and construction plans filed with and submitted to the City of Lufkin for approval shall provide for utility services such as electrical, gas, telephone and cable TV utility

(lateral and/or service distribution) lines and wires to be placed underground. Feeder and other major transmission lines may remain overhead within the appropriate easements. However, a subdivider shall endeavor and, whenever practical, the City shall require that feeder lines are placed away from traffic arteries (Thoroughfare Types "A" and "B"). Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way. Verification of acceptance of easement locations and widths by the public utilities shall be provided prior to final plat approval by the Planning and Zoning Commission, and all easements shall be reviewed by the utility companies and City Engineer for the City prior to granting final approval for all residential subdivisions affected by this section.

- C. Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the owner or developer in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.
- D. All electrical and telephone support equipment, including transformers, amplifiers, and switching devices necessary for underground installations, shall be pad-mounted or mounted underground, but not overhead (unless the subdivision is served from perimeter overhead electrical facilities).
- E. Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver/suspension or exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.
- F. Nothing in this section shall be construed to require any existing facilities in place prior to the effective date of this Ordinance to be placed underground.

### ***Section 3.8: Water and Wastewater Facility Design***

- A. All new subdivisions shall be connected with an approved water system designed and constructed in accordance with the TCSS Manual, as amended, and shall be capable of providing water for health and emergency purposes, including fire protection. All subdivisions must be served by an approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. It shall be the subdivider's responsibility to extend utility lines to provide water or sanitary sewer service, and to procure any necessary off-site easements for required public improvements (e.g., easements for utilities, street stubs/temporary turnarounds, drainage facilities, etc.).
- B. It shall be the subdivider's responsibility to design all improvements according to the latest edition of the Comprehensive Plan and Water and Wastewater Master Plans, and/or the TCSS Manual, whichever are applicable. No sewer main or water main for fire service shall be less than six (6) inches in size. The City may require that the subdivider oversize the water system and/or the sanitary sewer system where necessary to serve land other than the tract or lots to be platted, including the oversizing of off-site water or sewer mains necessary to extend service to the property to be platted. If the City requires oversizing, the City shall pay the difference in all

associated construction cost between the required utility and the oversized utility. The cost shall be determined by providing a minimum of three bids which have a based bid for required utilities and an alternate bid for the oversized utilities. The City utility extension policy is as follows:

1. Inside City Limits: If the extension of service to a property is inside the City limits of Lufkin, the City will extend utility service to the nearest property line that is the most advantageous to the City. The extension of service will be at no cost to the Owner or the Developer. Any upgrades in infrastructure will be completed by the City at no cost. All construction will be in accordance with the Fire Code, TCEQ, and the City Subdivision Ordinance, whichever is more restrictive.
  2. Outside City Limits: *For a Subdivision or Development requiring more than one meter* – If the extension of service to a property is outside the City limits of Lufkin, the Developer will extend utility service to the property under the supervision of City Staff and based on construction plans approved by the City Engineer. All construction will be in accordance with the Fire Code, TCEQ, and the City Subdivision Ordinance, whichever is more restrictive. The cost of the extension of utility service will be borne solely by the Developer. Any upgrades in infrastructure required to meet fire, pressure, and/or TCEQ rules will be completed by the Developer at their expense. In the event of future connections to the utility service by other Subdivisions or Developers, the original Developer will be reimbursed a prorated share based on a per unit cost for a period of up to five (5) years. The cost shall be determined based on the point of connection of the new development. After five (5) years, no cost will be reimbursed to the Developer. Sewer service is not provided outside the City Limits of Lufkin.
  3. Individual Residence or Meter: If the extension of service to a property is outside the City limits of Lufkin, the City will extend utility service to the property for the first two hundred feet (200') at no cost to the Owner. The Owner will be required to reimburse all material, labor, and administrative costs for all service beyond the first two hundred feet (200'). Upgrade requirements will be the responsibility of the City.
- C. Extension of water and wastewater lines adjacent to any subdivision shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connection to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the City Engineer may waive the requirement for adjacent utility line construction.
- D. Installation of utilities not specifically referenced herein shall comply with all applicable rules and regulations of the City of Lufkin, Angelina County (when applicable), and the Texas Commission on Environmental Quality (TCEQ).
- E. The City of Lufkin may aid in development, depending upon scheduling, in the construction of curb and gutter residential subdivisions by allowing for use of City crews and equipment in the installation of water and sewer infrastructure. The purchase of all material is the express requirement of the developer.

### ***Section 3.9: Stormwater Collection/Conveyance Systems***

System Design Requirements. Drainage improvements shall accommodate 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 impact of the proposed development. No stormwater collection system shall be constructed within the City unless it is designed in accordance with the City of Lufkin's Drainage Criteria Manual for the Design of Storm Drainage Systems by a registered professional engineer and approved by the City Engineer. All developed areas shall have concrete curb and gutter drainage systems unless the development has an average lot size of at least one (1) acre. These lower density developments can utilize drainage ditch systems or swales if recommended by the City Engineer and the Planning and Zoning Commission and approved by the City Council. All plans submitted to the City Engineer for approval shall include a layout of the system together with supporting calculations for the design of the system. In addition to any others, the plans shall conform to the City of Lufkin's Drainage Criteria Manual.



## **IV. PUBLIC SITES AND OPEN SPACES**

### ***Section 4.1: Areas for Public Use***

- A. The subdivider shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the City's Comprehensive Plan, Parks, Recreation & Open Space Master Plan, and other applicable plans. Any provision for schools, parks and/or other public facilities shall be indicated on the preliminary plat and shall be subject to approval by the Planning and Zoning Commission.
- B. No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream, or drainageway, without first obtaining a flood plain development permit or written permission of the City or other agency having jurisdiction.

### ***Section 4.2: Protection of Drainage and Creek Areas***

- A. Definitions and Methodology for Determining the Floodway Management Area (FMA). The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of flood plain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe.
  1. For the purposes of this Ordinance, the Floodway Management Area (FMA) will correspond to any and all special flood hazard areas indicated on the most recent FEMA Flood Insurance Rate Map (FIRM).
- B. Areas Where a Floodway Management Area (FMA) is Required.
  1. All drainage areas or regulated floodways as referenced on the Floodway and Flood Boundary Map (FIRM Maps) that cover the City and its extraterritorial jurisdiction shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a registered professional engineer and approved by the City Engineer. Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition. The creek shall remain in its natural state unless improvements are permitted by the City due to the pending development of properties adjacent to or upstream of the required improvements.



2. In areas where no FMA is designated, the developer shall provide a twenty-foot-wide (20'-wide) easement from the top of the bank of a creek or channel with slopes of at least 5:1.
- C. No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute or change the course or location of any existing ditch, channel, stream or drainageway, without first obtaining written permission of the City and any other agency having jurisdiction.
- D. Ownership and Maintenance of the FMA. The area determined to be the FMA shall be designated on and part of the final plat. Approximate locations shall be shown on zoning change requests and preliminary plats. At the City's option, the FMA shall be protected by one of the following methods:
  1. Dedicated to the City of Lufkin, at the developer's option; or
  2. Easement(s). Creeks or drainageways in tracts which have private maintenance provisions, other than single- or two-family platted lots, can be designated as the FMAs by an easement to the City on the final plat. Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there is adequate maintenance provisions, but no lots or portions of lots may be platted in the easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number; or
  3. Certain recreational uses normally associated with or adjacent to flood prone areas (no structures allowed in the FMA), such as golf courses. The uses allowed shall be in conformance with the Zoning Ordinance.
    - a. Prior to acceptance of any drainageway as an FMA by the City, the area shall be cleared of all debris. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for recreational purposes.
- E. Design Criteria. The following design criteria shall be required for development adjacent to the FMA:
  1. Adequate access must be provided along the FMA for public or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet (5') shall be provided.
  2. Lots in a single-family, PD single-family or duplex residential zoning district shall not be platted within the FMA. If lots back to an FMA, at least two reasonable points of access to the FMA, each a minimum of twenty feet (20') in width, shall be provided. Streets and alleys may qualify as access points if designed such that they are navigable by maintenance vehicles. All areas of the FMA must be accessible from the access points. Lots used for multi-family may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents.
  3. Public streets may be approved in the FMA by the Planning and Zoning Commission, if they conform to applicable engineering standards.
  4. Public streets may be required to be constructed adjacent to some portions of the FMA to allow access for maintenance or recreational opportunities.

5. No building sites shall be located within the floodway.
6. Alternate designs to facilitate equal or better access may be permitted if approved by the City Engineer.
- F. Drainage areas which have been altered and are not in a natural condition can be exempted from an FMA and this Section at the discretion of the Planning and Zoning Commission and upon recommendation by the City Engineer.
- G. Any construction within the FMA (including, but not limited to, grading, clearing, construction of utility lines, etc.) shall require issuance of a flood plain permit prior to commencement of such construction.

### ***Section 4.3: Property/Homeowners Associations***

- A. Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City of Lufkin for public use (e.g., private streets, private recreation facility, landscaped entry features, etc.), a property/homeowners association agreement consistent with State and other appropriate laws, must be submitted to and approved by the Planning and Zoning Commission, and made a part of the final plat documents. The Conditions, Covenants and Restrictions (i.e., CCRs) and the association documents (i.e., articles of incorporation, by-laws) shall be submitted to the City for review and City approval along with the preliminary plat application, and such documents must contain provisions that satisfy the requirements outlined within this Section. Said documents must, at a minimum, include provisions which allow the City to take over the maintenance of common property (including private streets, private recreation facilities, etc.) using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct. Provisions shall also be included which would, in the latter instance, convey ownership of the private streets (if any) and all other common areas to the City, and which would allow the City to remove any improvements/amenities from the common areas and sell any buildable land area (as residential lots) to recoup the City's expenses for maintenance and/or demolition of the improvements. Any monies that remain after the City has recovered all of its expenses shall be retained for future maintenance/upgrading of the streets, common areas (if any remain), screening walls, or other improvements within the subdivision.
- B. Membership. A property/homeowners association shall be an incorporated non-profit organization operating under recorded land agreements through which:
  1. Each lot owner within the described land area is automatically a member (i.e., membership in the association is mandatory); and
  2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the property/homeowners association's activities, such as maintenance of common open spaces or the provision and upkeep of common recreational facilities.
- C. Legal Requirements. In order to assure the establishment of a proper property/homeowners association, including its financing, and the rights and responsibilities of the property/homeowners in relation to the use, management and ownership of common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:



1. Legally create an automatic membership, non-profit property/homeowners association;
  2. Place title to the common property in the property/homeowners association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;
  3. Appropriately limit the uses of the common property;
  4. Give each lot owner the right to the use and enjoyment of the common property;
  5. Place responsibility for operation and maintenance of the common property in the property/homeowners association;
  6. Place an association charge on each lot in a manner which will both assure sufficient association funds and which will provide adequate safeguards for the lot owners against undesirable high charges;
  7. Give each lot owner voting rights in the association; and
  8. Must identify land area within the association's jurisdiction including but not limited to the following:
    - a. Property to be transferred to public agencies;
    - b. The individual residential lots;
    - c. The common properties to be transferred by the developer to the property/homeowners association; and
    - d. Other parcels.
  9. Any governmental authority or agency, including, but not limited to, the City and the County, their agents, and employees, shall have the right of immediate access to the common elements at all times if necessary for the preservation of public health, safety and welfare. Should the property/homeowners association fail to maintain the common elements to City specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, then the City shall have the same right, power and authority to enforce the association's rules and to levy assessments necessary to maintain the common elements. The City may elect to exercise the rights and powers of the property/homeowners association or its Board, or to take any action required and levy any assessment that the property/homeowners association might have taken, either in the name of the property/homeowners association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary) of any common elements.
- D. Protective Covenants. Protective covenants shall be developed which, among other things, shall make the property/homeowners association responsible for:
1. The maintenance and operation of all common property;
  2. The enforcement of all other covenants;
  3. The administration of architectural controls (optional); and





4. Certain specified exterior maintenance of exterior improvements of individual properties (optional).



## V. IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE CITY

### ***Section 5.1: Improvements***

- A. The requirements of the Subdivision Ordinance as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of the Subdivision Ordinance, all improvements as required herein are installed properly and:
1. The City can provide for the orderly and economical extension of public facilities and services;
  2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
  3. All required improvements are constructed in accordance with City standards.
- B. Adequate Public Facilities Policy. The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities 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 is defined further and supplemented by Section 3.1.C and 3.8. Utilities shall be extended to all adjacent property lines to allow connection of these utilities by adjacent property owners when such property is platted.
- C. The public improvements required by the City of Lufkin for the acceptance of the subdivision by the City shall include, but are not limited to, the following:
1. Water and wastewater facilities;
  2. Drainage facilities;
  3. Streets;
  4. Street lights;
  5. Street signs;
  6. Sidewalks;
  7. Traffic control devices required as part of the project; and
  8. Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.
- D. All aspects of the design and implementation of public improvements shall comply with the City's current design standards and any other applicable City codes and ordinances, including

preparation and submittal of construction plans and construction inspection. The construction of all of the improvements required in this Ordinance shall conform to the latest edition of the City's TCSS Manual.

- E. Changes or Amendments to the TCSS Manual and Other Construction/Design Documents. The Technical Construction Standards & Specifications (TCSS) Manual will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the TCSS Manual may be amended separately from this document. The TCSS Manual referenced by the Subdivision Ordinance shall be amended as a separate resolution by the City Council.

## ***Section 5.2: Monuments***

- A. In all subdivisions and additions, corners shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than one-half inch (½") in diameter and sixteen inches (16") deep, and set flush with the top of the ground, and shall be tied to the City-designated monument system. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (½") and sixteen inches (16") deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block corners shall be installed prior to the final inspection of the subdivision by the City. Lot corners shall be installed prior to issuance of a building permit.

## ***Section 5.3: Street Lights***

- A. Before final acceptance of streets, alleys, sewers and other utilities, street light locations and installations shall be coordinated by the developer with the power company and the City of Lufkin. It shall be the subdivider's responsibility to install street lights (per the City of Lufkin's street light standard, where applicable) with metal poles (or approved similar material) at street intersections and at a maximum distance of six hundred feet (600') apart, except where curb grades or terrain requires additional lighting, and at the terminus of cul-de-sacs.
- B. Street lighting shall be installed to provide an average of 0.4 footcandle per square foot on the roadway between curbs. The lowest intensity at any point shall not be less than 0.1 footcandle per square foot. Street lighting materials shall be approved by the City Engineer (or designee). Any costs associated with upgrading street lighting fixtures shall be borne by the developer/property owner.

## ***Section 5.4: Street Names and Signs***

- A. Street names must be submitted to the City for review and approval in accordance with the City's guidelines for the naming of streets. Proposed street names shall be submitted for review along with (and as a part of) the preliminary plat application, and shall become fixed at the time of approval of the preliminary plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the City (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for City staff review and approval along with the



final plat application. A fee may be established by the City for the changing of street names after approval of the preliminary plat.

- B. The City will maintain a list of existing street names (and “reserved” street names that have been approved on a preliminary plat), and will update the list as new streets are platted.
- C. New street names shall not duplicate existing street names either literally or in a subtle manner (e.g., Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle), shall not be so similar as to cause confusion between names (e.g., Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive), and shall not sound like existing street names when spoken (e.g., Oak Drive vs. Doak Drive; Lantern Way vs. Land Tern Way).
- D. New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical.
- E. The property owner shall provide payment for street name signs and other traffic control signs as required for the development. The cost of each street name sign installation shall include the cost of the sign assembly, pole and the time for installation. Payment by the property owner will be due prior to approval of the engineering plans by the City Engineer.
- F. Street name signs shall be installed in accordance with the City’s guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

### ***Section 5.5: Street and Alley Improvements***

- A. All on-site (i.e., internal) streets and alleys shall be constructed by the developer at the developer's expense, unless otherwise allowed by this Ordinance.
- B. All streets and alleys shall be constructed per the specifications in the City’s TCSS Manual, unless otherwise recommended by the Planning and Zoning Commission and approved by the City Council.
- C. The minimum street and alley drainage standards for which the construction shall be made by the developer are shown in the TCSS Manual.
- D. In addition to the above mentioned minimum standards, barrier-free ramps for the handicapped shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.
- E. All signs and barricades shall be in conformity with the TCSS Manual and/or with ADA specifications for uniform traffic control devices, as adopted by the Texas Department of Transportation and/or the Texas Department of Public Safety.
- F. Approval is required prior to the installation of any driveway connecting to a public street. The City Engineer (or designee) shall approve all driveway cuts.

### ***Section 5.6: Entryway Features (neighborhood identification).***

1. Subdivisions in excess of ten (10) platted lots may provide a low maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed within an easement identified for such use adjacent to or within the right-of-way, and shall observe all sight visibility requirements.
2. Design Requirements. The entryway feature shall include living landscaped materials as specified by the City. The design of the entryway feature shall also include an automatic underground irrigation system, and may also include subdivision identification (i.e., signage located on the wall). All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that are customary for their container/ball size (as per the latest edition of the "American Standard for Nursery Stock", by the American Association of Nurserymen, as may be amended).
3. The design of the entryway shall be in accordance with design policies as provided by City staff. The design of the entry shall be reflected on the engineering plans submitted with the preliminary plat, and shall be approved by the City in conjunction with approval of the construction plans.
4. The maintenance of the entryway shall be the responsibility of the developer for a period of at least two (2) years or until building permits have been issued for eighty percent (80%) of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by an approved homeowners association (see Section 4.3). If, at some point in time, the maintenance responsibility shifts to the City, the City shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify and/or minimize the amount of time and effort that maintenance of the entryway will require.

### ***Section 5.7: Water and Sewer Requirements***

- A. The installation of all water and wastewater lines shall be in conformance with the TCSS Manual.
- B. No final plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the subdivider has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities, and shall be approved by the City Engineer. Any waiver of this requirement shall be approved by the City Council.
- C. Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate domestic water supply and to furnish fire protection to all lots shall be provided. Water lines shall extend to the property line, and a box for the water meter(s) for each lot shall be installed immediately adjacent to the right-of-way in an easement.
- D. Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structure when

connections are made. The location of service lines shall be marked in accordance with the TCSS manual.

- E. Fire hydrants shall be installed in residential areas every five hundred feet (500') of laying distance, and in nonresidential areas every three hundred feet (300') of laying distance.
- F. If the extension of service to a property is inside the City limits of Lufkin, the City will extend utility service to the nearest property line that is the most advantageous to the City. The extension of service will be at no cost to the owner/developer. Any upgrades in infrastructure will be completed by the City at no cost to the owner/developer. All construction will be completed in accordance with the City Fire Code, TCEQ, and this Subdivision Ordinance, whichever is more restrictive.
- G. If the extension of service to a property for a subdivision or development requiring more than one (1) meter is outside the City limits of Lufkin, the owner/developer will extend utility service to the property under the supervision of City staff and based on construction plans approved by the City Engineer. All construction will be in accordance with the City Fire Code, TCEQ, and this Subdivision Ordinance, whichever is more restrictive. The cost of the extension of utility service will be borne solely by the owner/developer. Any upgrades in infrastructure required to meet fire, pressure, and/or TCEQ rules will be completed by the owner/developer at their expense. In the event of future connections to the utility service by other subdivisions or developers, the original owner/developer will be reimbursed a prorated share based on a per unit cost for a period of up to five (5) years. The cost shall be determined based on the point of connection of the new development. After five (5) years, no cost will be reimbursed to the owner/developer.
- H. If the extension of service to a property for an individual residence or meter is outside the City limits of Lufkin, the City will extend utility service to the property for the first two hundred (200) feet at no cost to the owner. The owner will be required to reimburse all material, labor, and administrative cost for all service beyond the first two hundred (200) feet. Upgrade requirements will be the responsibility of the City.

### ***Section 5.8: Storm Drainage***

- A. An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions and/or inadvertent storm water retention (i.e., standing or pooling water), as established by the City, will not be considered for development until adequate drainage has been provided.
- B. The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to the City of Lufkin's criteria in the TCSS Manual. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways.
- C. The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment and/or trash from drainage improvements, with the exception of backlot and sidelot drainage swales, at the eleventh month of the year for the required one-year maintenance bond for the applicable facilities. The City



shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

### ***Section 5.9: Mail/Delivery Boxes***

- A. All mail boxes and similar areas and/or facilities for mail/package delivery shall be installed in accordance with U.S. Postal Service guidelines, and shall be accessible in accordance with ADA regulations.



## VI. REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY THE CITY OF LUFKIN

### ***Section 6.1: Withholding City Services and Improvements Until Acceptance***

- A. The City hereby defines its policy to be that the City will withhold all City services and improvements of whatsoever nature, including the maintenance of streets, the furnishing of sewage facilities, water service, other utility service, and all other City services from all additions until all of the street, utility, storm drainage and other public improvements, as well as lot improvements (e.g., grading and installation of improvements required for proper lot drainage and prevention of soil erosion, retaining walls, etc.) on the individual residential lots, are properly constructed according to the approved engineering plans and to City standards, and until such public improvements are dedicated to and accepted by the City.

### ***Section 6.2: Guarantee of Public Improvements***

- A. Subdivider's Guarantee. Before approving the final plat of a subdivision located all or partially within the City and/or the City's extraterritorial jurisdiction, the City Engineer must be satisfied that all public improvements required shall have been constructed in accordance with the requirements of this Ordinance.
- B. Improvement Agreement and Guarantee. Based upon a recommendation by the City Engineer (or designee), the Planning and Zoning Commission may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final plat, and may permit the property owner to enter into an improvement agreement by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the final plat is approved. The Planning and Zoning Commission may also require the property owner to complete and dedicate some of the required public improvements prior to approval of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the City. Nothing within this section shall nullify the City's obligation to participate in the construction of oversize facilities (pursuant to Ordinance No. \_\_\_\_, adopted on \_\_\_\_\_, as may be amended).
- C. Improvement Agreement Required for Oversize Reimbursement. The City shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs. The City Manager shall authorize the approval of such agreement as meeting the requirements of the City. The City Engineer is authorized to sign an improvement agreement on behalf of the City.
- D. Security. Whenever the City permits a property owner to enter into an improvement agreement, it shall require the owner to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a letter of credit or other security acceptable to the City Attorney, as security for the promises contained in the improvement agreement. In addition to all other security, for completion of those





public improvements where the City participates in the cost, the owner shall provide a performance bond from the contractor, with the City as a co-obligee. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion (including engineering design fees, contingencies, administrative costs, and other related costs) of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the City Attorney.

- E. Letter of Credit. If the City Engineer authorizes the property owner to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:
1. Be irrevocable;
  2. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than one (1) year; and
  3. 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.
- F. As portions of the public improvements are completed in accordance with the TCSS Manual and the approved engineering plans, the developer may make application to the City Engineer (or designee) to reduce the amount of the original letter of credit. If the City Engineer (or designee) is satisfied that such portion of the improvements has been completed in accordance with City standards, he may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that he deems appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.
- G. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the security to 10% of the original amount of the security if the property owner is not in breach of the improvement agreement. The remaining security shall be security for the owner's covenant to maintain the required public improvements and to warrant that the improvements are free from defects for one (1) year thereafter. If the required security for maintenance and warranty is otherwise provided by the contractors or by others, the City will release the entire amount of the developer's security.

### ***Section 6.3: Temporary Improvements***

- A. The property owner shall build and pay for all costs of temporary improvements required by the City, and shall maintain those temporary improvements for the period specified by the City. Section 6.4: Government Units
- B. Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this Section.

### ***Section 6.4: Failure to Complete Improvements***

- A. For plats for which no improvement 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 expired. In those cases where an improvement



agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the City may:

1. 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;
2. The final plat shall not be accepted for approval until the public improvements are completed;
3. Obtain funds under the security and complete the public improvements itself or through a third party;
4. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements for the subdivision;
5. Exercise any other rights available under the law.

### ***Section 6.5: Acceptance of Dedication Offers***

- A. Acceptance of formal offers for the dedication of streets, public areas, easements and/or parks shall be by authorization of the City Engineer (or designee). The approval by the City of a preliminary or final plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the City of any street, public area, easement or park shown on the plat. The City may require the plat to be endorsed with appropriate notes to this effect.

### ***Section 6.6: Maintenance and Guarantee of Public Improvements***

- A. The owner shall maintain all required public improvements for a period of one (1) year following acceptance of the subdivision by the City, and shall also provide a warranty that all public improvements will be free from defects for a period of one (1) year following such acceptance by the City.

### ***Section 6.7: Construction Procedures***

- A. A permit is required from the City Engineer (or designee) prior to beginning any work in the City or its extraterritorial jurisdiction that affects erosion control, public utilities, storm drainage, or a flood plain.
- B. Preconstruction Conference. The City Engineer (or designee) may require that all contractors participating in the construction meet for a preconstruction conference before any filling, excavation, clearing and/or removal of vegetation and trees that are larger than eight inch (8") diameter.
- C. Conditions Prior to Authorization. Prior to authorizing release of a grading permit, the City Engineer (or designee) shall be satisfied that the following conditions have been met:
  1. The preliminary plat shall be approved by the Planning and Zoning Commission;



2. All required contract documents are completed and filed with the City Engineer;
3. All necessary off-site easements and/or dedications required for City-maintained facilities and not shown on the final plat must be conveyed solely to the City (i.e., by separate instrument), with the proper signatures affixed. The original of the documents and the appropriate filing fees (per the City's submission guidelines, as may be amended from time to time) shall be returned to the City Engineer prior to approval and release of the engineering plans;
4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer (at least one set of these plans shall remain on the job site at all times);
5. 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; and
6. All applicable fees must be paid to the City.

### ***Section 6.8: Inspection of Public Improvements***

- A. General Procedure. Construction inspection shall be supervised by the City Engineer. Construction shall be in accordance with the approved engineering plans and the TCSS Manual of the City of Lufkin (and other applicable codes and ordinances). Any change in design that is required during construction should be made by the registered professional 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 submitted to the City Engineer for approval. If the City Engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the City's standards and TCSS Manual, then the property owner shall be responsible for completing and/or correcting the deficiencies such that they are brought into conformance with the applicable standards.
- B. 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 "as-built", or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of record drawings of the paving, drainage, water, sanitary sewer and/or other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with construction plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature of the registered professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the City with a copy of the final plat and the engineering plans, if prepared on a CADD system, in such a digital format (i.e., on disk) or by email that is compatible with the City's CADD system. When such requirements have been met, the City Engineer shall issue a letter of acceptance to the developer.



1. 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 Planning and Zoning Commission may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the Planning and Zoning Commission. If the remaining public improvements are greater than \$10,000.00 and are not completed within the determined length of time, the City will impose a ten percent (10%) penalty of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than \$10,000.00, the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.
2. 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.

### ***Section 6.9: Deferral of Required Improvements***

- A. The Planning and Zoning Commission may, upon petition of the property owner and favorable recommendation of the City Engineer, defer at the time of final plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the interests of the public health, safety and general welfare.
- B. Whenever a petition to defer the construction of any public improvements required under this Ordinance is granted by the Planning and Zoning Commission, the property owner shall deposit in escrow his share of the costs (in accordance with City participation and oversizing policies) of the future public improvements with the City prior to approval of the final plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the City.

### ***Section 6.10: Issuance of Building Permits and Certificates of Occupancy***

- A. No building permit shall be issued for a lot or building site unless the lot or site has been officially recorded by a final plat approved by the City of Lufkin, and unless all public improvements, as required by this Ordinance for final plat approval, have been completed, except as permitted below:
  1. Building permits may be issued for a non-residential or multi-family (i.e., apartments) development provided that a preliminary plat has been approved by the City, and construction plans have been released by the City Engineer. However, building construction will not be allowed to surpass the construction of fire protection improvements (i.e., the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, and inspected/tested).



2. The Building Official may release some residential building permits for a portion of a subdivision (i.e., for not more than 10% of the new residential lots), provided that:
  - a. A preliminary plat has been approved by the City,
  - b. All public improvements have been completed for that portion of the development and have been approved by the City Engineer, including, but not limited to, those required for fire and emergency protection (i.e., streets including at least two points of access, alleys, water lines serving fire hydrants, emergency access points, etc.).
3. No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the City and recorded at the County. Notwithstanding the above, the Building Official and the City Engineer may jointly authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the City for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the City's Building Codes.



## **VII. FILING FEES & PLAT SUBMISSION REQUIREMENTS**

### ***Section 7.1: Filing Fees and Submission Requirements***

- A. Fees and charges (as well as other submission requirements) for the filing of applications for the approval of land studies/concept plans (for non-residential parcels), preliminary plats, final plats, development plats, replats, amended plats and plat vacations shall be as established by resolution of the City Council, as may be amended from time to time.
1. Such fees and charges, as stated below, shall be imposed and collected on all applications for approval of a concept plan, preliminary plat, final plat, development plat, replat, amended plat, and plat vacation, regardless of the action taken by the City Planning and Zoning Commission and City Council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering and inspection services necessary to properly review and investigate plats and subdivision construction.
  2. All required fees (i.e., applicable fees, taxes, street signs, etc.), unless specifically stated otherwise herein, shall be paid as required in other sections of this Ordinance. Inspection fees may be paid at the time the actual inspection is made of the project.



## VIII. ADOPTION

- A. Adoption of this Ordinance shall take effect immediately from and after its passage and the publication of the caption of said Ordinance, as the law in such case provides.

Passed and adopted on first reading by the City Council of the City of Lufkin, Texas, this 16<sup>th</sup> day of March, 2004.

  
Mayor, City of Lufkin, Texas

ATTEST:


  
City Secretary, City of Lufkin, Texas

(Seal)

APPROVED AS TO FORM:

  
City Attorney, City of Lufkin, Texas

Passed and adopted on second reading by the City Council of the City of Lufkin, Texas, this 6<sup>th</sup> day of April, 2004.

  
Mayor, City of Lufkin, Texas

ATTEST:

  
City Secretary, City of Lufkin, Texas

(Seal)

APPROVED AS TO FORM:

  
City Attorney, City of Lufkin, Texas