

A G E N D A

A regular meeting of the Mayor and City Council of the City of Waxahachie, Texas to be held in the Council Chamber at City Hall, 401 S. Rogers on **Monday, October 21, 2019 at 7:00 p.m.**

Council Members: David Hill, Mayor
Mary Lou Shipley, Mayor Pro Tem
Chuck Beatty, Councilmember
Kevin Strength, Councilmember
Melissa Olson, Councilmember

1. Call to Order
2. Invocation
3. Pledge of Allegiance and Texas Pledge of Allegiance
4. **Public Comments:** Persons may address the City Council on any issues. This is the appropriate time for citizens to address the Council on any concern whether on this agenda or not. In accordance with the State of Texas Open Meetings Act, the Council may not comment or deliberate such statements during this period, except as authorized by Section 551.042, Texas Government Code.
5. **Consent Agenda**

All matters listed under Item 5, Consent Agenda, are considered to be routine by the City Council and will be enacted by one motion. There will not be separate discussion of these items. Approval of the Consent Agenda authorizes the Mayor/City Manager to execute all matters necessary to implement each item. Any item may be removed from the Consent Agenda for separate discussion and consideration by any member of the City Council.

 - a. Proposal from Austen Consultants, LLC to provide VOIP phone system and related services
 - b. Budget Amendment request by Police Department to improve firing range
6. **Recognize** outgoing Board Members
7. **Introduce** Honorary Councilmember
8. **Public Hearing** on a request by Jeff Crannell, CCM Engineering, for a Zoning Change from a Planned Development-34-Multiple Family-1/General Retail, Single Family-3 and Multiple Family-1 zoning district to Planned Development-Single-Family Residential-3 and Planned Development-Two Family Residential, with Concept Plan, located at the NW corner of Peters Street at Graham Street (Property ID 193944) - Owner: WAXAHACHIE ISD (PD-19-0124)
9. **Consider** proposed Ordinance approving PD-19-0124

10. **Public Hearing** on a request by Brandon Brown, Circle L Solar, for a Specific Use Permit (SUP) for Rooftop Solar Panel System use within a Single Family-2 zoning district, located at 212 Solon Road (Property ID 172942) – Owner: SEAN AUGER & LAUREN FRATINA (SU-19-0121)
11. **Consider** proposed Ordinance approving SU-19-0121
12. **Public Hearing** on a request by Brandon Brown, Circle L Solar, for a Specific Use Permit (SUP) for Rooftop Solar Panel System use within a Planned Development-Single Family-2 zoning district, located at 414 Sunset Court (Property ID 265783) – Owner: TODD A AND REBECCA K BUCK (SU-19-0122)
13. **Consider** proposed Ordinance approving SU-19-0122
14. **Public Hearing** on a request by Mark Thedford, Akamai Designs, for a Zoning Change from a Single-Family Residential-3 zoning district to Planned Development-Single-Family Residential-3, with Concept Plan, located at 1609 Cleaver Street (Property ID 182093) - Owner: AKAMAI DESIGNS INC (PD-19-0119)
15. **Consider** proposed Ordinance approving PD-19-0119
16. **Public Hearing** on a request by Maxwell Fisher, Masterplan, for a Zoning Change from a Multiple Family-2 zoning district to Planned Development-Multiple Family-2, with Concept Plan, located at the SW corner of Garden Valley Parkway at Goodnight Lane (Property ID 275562) - Owner: KALTERRA CAPITAL PARTNERS LLC (PD-19-0114)
17. **Consider** proposed Ordinance approving PD-19-0114
18. **Public Hearing** on a request by the City of Waxahachie to repeal the current Subdivision Ordinance, Ordinance No. 2084, as amended, and to replace it in its entirety with a new Subdivision Ordinance (TA-19-0118)
19. **Consider** proposed Ordinance approving TA-19-0118
20. **Consider** Professional Services Agreement and Budget Amendment for Architectural Services for City Hall Annex
21. **Consider** proposed Ordinance repealing and replacing Chapter 6 (Animal and Fowl) of the Code of Ordinances
22. **Consider** the award of a bid to J & K Excavation LLC for the reconstruction of East Avenue C
23. **Consider** the award of a bid to Bar Constructors, Inc. for the Phase I Rehabilitation of the Wastewater Treatment Plant
24. **Consider** a deductive change order for a scope reduction with Bar Constructors, Inc. for Phase I Rehabilitation of the Wastewater Treatment Plant
25. **Consider** adopting the recommendation of Lee Engineering to increase the speed limit on North Grove Boulevard

26. **Consider** the award of a professional services contract to Birkhoff, Hendricks, and Carter, LLP for the Lofland Road Water Line project
27. Comments by Mayor, City Council, City Attorney and City Manager
28. Adjourn

The City Council reserves the right to go into Executive Session on any posted item.

This meeting location is wheelchair-accessible. Parking for mobility-impaired persons is available. Any request for sign interpretive services must be made forty-eight hours ahead of the meeting. To make arrangements, call the City Secretary at 469-309-4005 or (TDD) 1-800-RELAY TX



Memorandum

To: Honorable Mayor and City Council
From: Chris Cunningham, IT Director
Thru: Michael Scott, City Manager 
Date: October 16, 2019
Re: Consider Proposal from Austen Consultants, LLC to Provide New Enterprise Business Phone System

Item Description: Consider proposal from Austen Consultants, LLC and approving the contract for a new 3CX cloud hosted enterprise business phone system.

Item Summary: After 7 years, our existing NEC phone system used by all city staff and facilities has reached the end of its support and hardware life-cycle. In order to maintain the necessary hardware requirements and support contracts, a significant financial investment was required. We were also beginning to experience extensive technical issues with the existing system that NEC was unable to resolve, causing interruption in service at one of our City facilities. We decided to quickly investigate other options for replacement and sent out an RFQ to several telecommunication vendors for proposals. After IT Management evaluated all proposals received, there were 2 vendor finalists approved for the next phase of the evaluation process. The 2 vendor finalists were put through a rigorous POC (Proof of Concept) with 6 City staff members from varying facilities and departments throughout the City. During the POC, all members of the POC committee were tasked with thoroughly testing the phone system functionality, collaboration tools and the recommended phones by both vendor finalists. At the conclusion of the POC, the decision was unanimous that the best solution for the City was provided by Austin Consultants using the 3CX enterprise phone system.

After thorough testing and a unanimous decision from our POC committee, we are asking for City Council approval to move forward with the 3CX enterprise business phone solution with management and service level agreements being provided by Austin Consultants.

Fiscal Impact: The cost will be \$44,440 for services and hardware with a recurring monthly service charge of \$3,520. There is no significant fiscal impact as the new phone solution will be absorbed

(4A)

as part of the approved 2019-2020 fiscal budget. We are also expecting a long-term cost savings once all legacy phone line contracts are terminated and service/support is no longer required from the current legacy NEC system.

Request: Authorization for City Manager to execute Agreement with Austen Consultants for the purchase and implementation of the 3CX phone system.

(4b)



Memorandum

To: Honorable Mayor and City Council
From: Wade G. Goolsby, Chief of Police
Thru: Michael Scott, City Manager 
Date: October 15, 2019
Re: Budget Amendment

In last year's budget, the police department had a designated amount of money to improve our firing range. The plan was to partner with Ellis County and build a joint firing range. Each agency was going to contribute fifty thousand dollars (\$50,000) and each agency would contribute either equipment or labor to complete the project. The County was unable to provide their financial commitment to the project and requested the fifty thousand again in this year's budget process. Unfortunately, they were again denied. We never used any of the designated \$50,000 in our budget last year.

We still need to improve our firing range and are proposing the improvement by taking a different approach. We propose relocating our range a short distance from its current location which is adjacent to the water treatment plant. Long term plans call for the expansion of the water treatment plant which would necessitate the relocation of the firing range at some point in the future anyway. We propose to relocate and improve the existing firing range by moving it approximately 300 yards to the north onto the landfill. This location provides us more space to develop firearm training and situational training on a long term basis. By using city crews and existing equipment, we should be able to complete the project with the \$50,000 that was approved last year.

I respectfully request a budget amendment of fifty thousand (\$50,000) in this year's budget to improve our firing range.

(8+9)



Memorandum

To: Honorable Mayor and City Council
From: Shon Brooks, Director of Planning
Thru: Michael Scott, City Manager
Date: October 4, 2019
Re: PD-19-0124 Symphony Estates

On October 3, 2019, the applicant requested to continue case no. PD-19-0124 to the October 29, 2019 Planning and Zoning meeting agenda and the November 4, 2019 City Council meeting agenda.

(110)

Planning & Zoning Department

Zoning Staff Report



Case: SU-19-0121

MEETING DATE(S)

Planning & Zoning Commission: October 15, 2019

City Council: October 21, 2019

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held October 15, 2019, the Commission voted 6-0 to recommend approval of zoning change SU-19-0121, as presented.

CAPTION

Public Hearing on a request by Brandon Brown, Circle L Solar, for a Specific Use Permit (SUP) for **Rooftop Solar Panel System** use within a Single Family-2 zoning district, located at 212 Solon Road (Property ID 172942) – Owner: SEAN AUGER & LAUREN FRATINA (SU-19-0121)

CASE INFORMATION

Applicant: Brandon Brown, Circle L Solar

Property Owner(s): Sean Auger and Lauren Fratina

Site Acreage: 0.182 acres

Current Zoning: Single Family-2

Requested Zoning: Single Family-2 with SUP

SUBJECT PROPERTY

General Location: 212 Solon Road

Parcel ID Number(s): 172942

Existing Use: Residence

Development History: N/A

Adjoining Zoning & Uses:

Direction	Zoning	Current Use
North	SF-2	Church
East	SF-2	Residence
South	SF-2	Residence
West	SF-2	Residence

Future Land Use Plan: Low Density Residential

(10)

Comprehensive Plan:

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of a similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

Thoroughfare Plan:

The property is accessible via Solon Rd.

Site Image:



PLANNING ANALYSIS

The applicant seeks to install solar panels on the roof of the single family residence. Per the City of Waxahachie Zoning Ordinance, solar panels are permitted with a Specific Use Permit, and must be installed so that they do not front onto the right-of-way. According to the current site plan submitted by the applicant, there will be no solar panel systems facing the public ROW.

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 20 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Daily Light and a sign was visibly posted at the property on 9/25/2019.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:

ATTACHED EXHIBITS

- 1. Ordinance
- 2. Location Exhibit
- 3. Site Plan

APPLICANT REQUIREMENTS

- 1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

STAFF CONTACT INFORMATION

Prepared by:
Chris Webb
Planner
cwebb@waxahachie.com

Reviewed by:
Shon Brooks, AICP
Director of Planning
sbrooks@waxahachie.com

(11)

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A ROOFTOP SOLAR PANEL SYSTEM USE WITHIN A SINGLE FAMILY-2 (SF-2) ZONING DISTRICT, LOCATED AT 212 SOLON ROAD, BEING PROPERTY ID 172942, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, IN THE COLLEGE HILLS ABSTRACT, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

WHEREAS, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

WHEREAS, the described property is classified in said ordinance and any amendments thereto as SF-2; and

WHEREAS, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number SU-19-0121. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

WHEREAS, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

WHEREAS, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

NOW, THEREFORE, this property is rezoned from SF-2 to SF-2, with an SUP in order to permit a Rooftop Solar Panel System use on the following property: Parcel ID 172942 of the College Hills abstract, which is shown on Exhibit A, in accordance with the Site Layout Plan attached as Exhibit B.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

PASSED, APPROVED AND ADOPTED on this 21st day of October, 2019.

(11)

MAYOR

ATTEST:

City Secretary



Exhibit A - Location Map

0 125 250 500 750 1,000 Feet

SU-19-0121

(11)

SOLON ROAD

25 G COLLEGE HILLS
#6 0.182 ACRES

- STC: 10 x 315 = 3.15kW
 PTC: 10 x 268 = 2.68kW
 (10) Q.PEAK DUO BLK-G5 315 (40.29VOC)
 (10) ENPHASE MICROINVERTER IQ-7-60-2-US (240VA)
 (1) ENPHASE COMBINER BOX (240VAC)
 (1) EATON DG222URB 240V 60A DISCONNECT
 (2) EDISON TIME-DELAY EENR60A 240VAC FUSES

GENERAL NOTES

1. FIELD VERIFY ALL MEASUREMENTS
2. ITEMS BELOW MAY NOT BE ON THIS PAGE.

UTILITY METER
UTILITY DISCONNECT

THE VISIBLE LOCKABLE
LABELED "AC"
DISCONNECT IS LOCATED
WITHIN 10 FT. OF METER.
(ESID) 10443720004382625

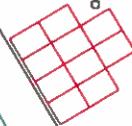


Exhibit B - Site Plan



A
A-101

SITE PLAN

1/16" = 1'-0"



CONTRACTOR

CIRCLE L SOLAR, INC.

PHONE: 817-945-2013
ADDRESS: 3914 SANDSHELL DRIVE
FORT WORTH, TX 76137

LIC. NO.: PVA-052217-017793
PIC. NO.:
ELE. NO.: 32897

NEW PV SYSTEM: 3.15 kWp

FRATINA
RESIDENCE

212 SOLON ROAD
WAXAHACHIE, TX 75185

ENGINEER OF
RECORD

PAPER SIZE: 11" x 17" (ANSI B)

SITE PLAN

DATE: 08.29.2019

DESIGN BY: FDA

CHECKED BY: JT

REVISIONS:

A-101.00

(12)

Planning & Zoning Department

Zoning Staff Report



Case: SU-19-0122

MEETING DATE(S)

Planning & Zoning Commission: October 15, 2019

City Council: October 21, 2019

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held October 15, 2019, the Commission voted 6-0 to recommend approval of zoning change SU-19-0122, as presented.

CAPTION

Public Hearing on a request by Brandon Brown, Circle L Solar, for a Specific Use Permit (SUP) for Rooftop Solar Panel System use within a Planned Development-Single Family-2 zoning district, located at 414 Sunset Court (Property ID 265783) – Owner: TODD A AND REBECCA K BUCK (SU-19-0122)

CASE INFORMATION

Applicant: Brandon Brown, Circle L Solar

Property Owner(s): Todd A and Rebecca K Buck

Site Acreage: 0.19 acres

Current Zoning: Planned Development-Single Family-2

Requested Zoning: Planned Development-Single Family-2 with SUP

SUBJECT PROPERTY

General Location: 414 Sunset Court

Parcel ID Number(s): 265783

Existing Use: Residence

Development History: N/A

Adjoining Zoning & Uses:

Direction	Zoning	Current Use
North	PD-SF-2	Residence
East	PD-SF-2	Residence
South	PD-SF-2	Residence
West	PD-SF-2	Residence

Future Land Use Plan: Low Density Residential

(12)

Comprehensive Plan:

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of a similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

Thoroughfare Plan:

This property is accessible via Sunset Ct.

Site Image:



PLANNING ANALYSIS

The applicant seeks to install solar panels on the roof of the single family residence. Per the City of Waxahachie Zoning Ordinance, solar panels are permitted with a Specific Use Permit, and must be installed so that they do not front onto the right-of-way. According to the current site plan submitted by the applicant, there will be no solar panel systems facing the public ROW.

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 25 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Daily Light and a sign was visibly posted at the property on 9/25/2019.

PON RESPONSES

Staff received one (1) letter of support for the proposed rooftop solar panel system.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:

(12)

ATTACHED EXHIBITS

1. Ordinance
2. Location Map
3. Site Plan
4. PON Responses
 - a. 1 support | 0 oppose

APPLICANT REQUIREMENTS

1. If approved by City Council, applicant can apply for building permits from the Building and Community Services Department.

STAFF CONTACT INFORMATION

Prepared by:

Chris Webb

Planner

cwebb@waxahachie.com

Reviewed by:

Shon Brooks, AICP

Director of Planning

sbrooks@waxahachie.com

(13)

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) TO PERMIT A ROOFTOP SOLAR PANEL SYSTEM USE WITHIN A PLANNED DEVELOPMENT-SINGLE FAMILY-2 (PD-SF-2) ZONING DISTRICT, LOCATED AT 414 SUNSET COURT, BEING PROPERTY ID 265783, IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING LOT 4 BLOCK 1 IN THE PARK PLACE PHASE 3 SUBDIVISION, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

WHEREAS, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

WHEREAS, the described property is classified in said ordinance and any amendments thereto as PD-SF-2; and

WHEREAS, a proper application for an SUP has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number SU-19-0122. Said application having been referred to the Planning and Zoning (P&Z) Commission was recommended by the P&Z Commission for approval and the issuance thereof; and

WHEREAS, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and,

WHEREAS, a proper hearing was held as required by law and the Council having heard all arguments for and against said SUP;

NOW, THEREFORE, this property is rezoned from PD-SF-2 to PD-SF-2, with an SUP in order to permit a Rooftop Solar Panel System use on the following property: Lot 4, Block 1 of the Park Place Phase 3 subdivision, which is shown on Exhibit A, in accordance with the Site Layout Plan attached as Exhibit B.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

PASSED, APPROVED AND ADOPTED on this 21st day of October, 2019.

(13)

MAYOR

ATTEST:

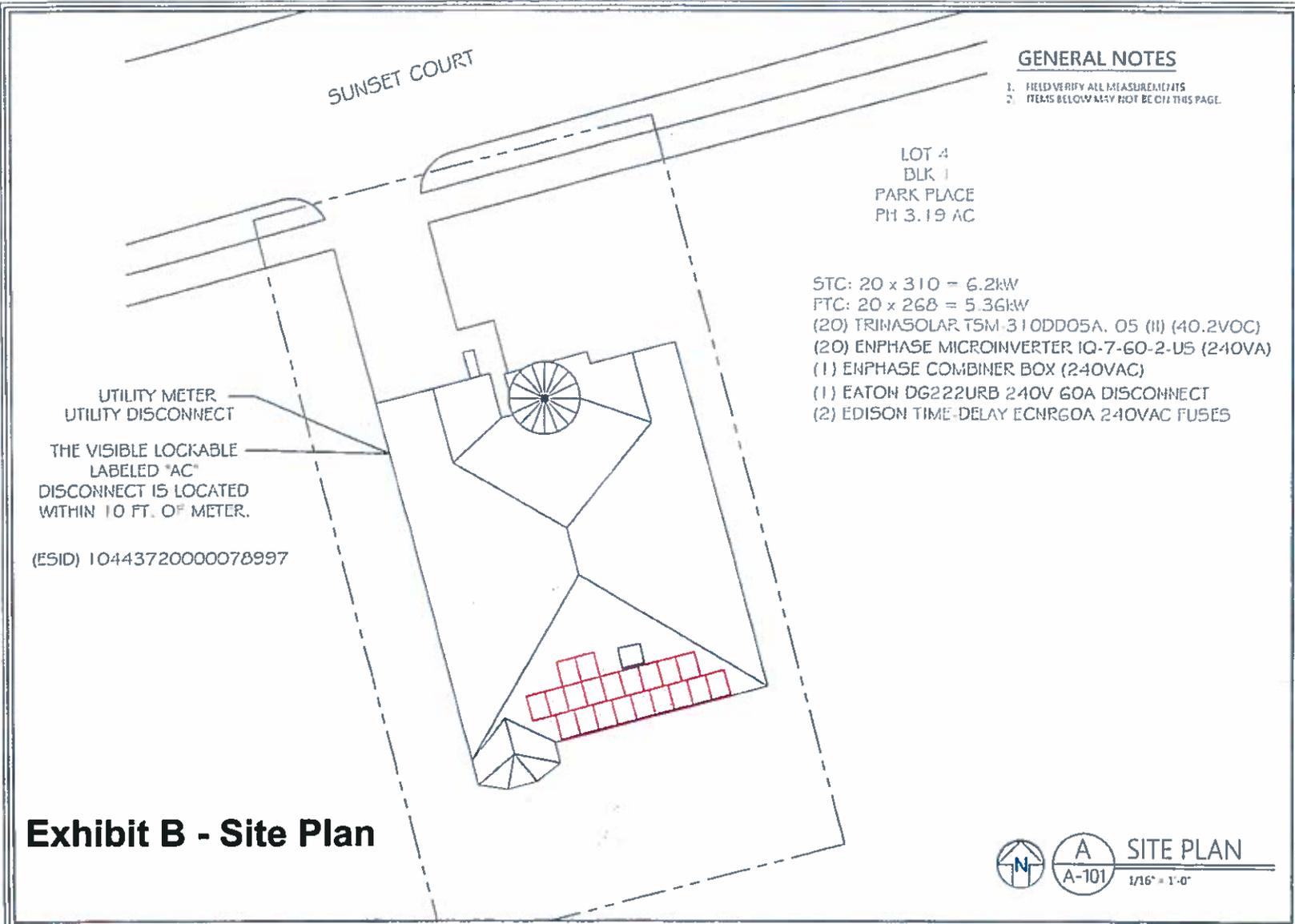
City Secretary



Exhibit A - Location Map

SU-19-0122

(13)



GENERAL NOTES

1. FIELD VERIFY ALL MEASUREMENTS
2. ITEMS BELOW MAY NOT BE ON THIS PAGE.

LOT 4
BLK 1
PARK PLACE
PH 3.19 AC

- STC: 20 x 310 = 6.2kW
 PTC: 20 x 268 = 5.36kW
 (20) TRINASOLAR TSM-310DD05A, 05 (II) (40.2VOC)
 (20) ENPHASE MICROINVERTER IQ-7-60-2-US (240VA)
 (1) ENPHASE COMBINER BOX (240VAC)
 (1) EATON DG222URB 240V 60A DISCONNECT
 (2) EDISON TIME-DELAY ECNR60A 240VAC FUSES

UTILITY METER,
UTILITY DISCONNECT
THE VISIBLE LOCKABLE
LABELED "AC"
DISCONNECT IS LOCATED
WITHIN 10 FT. OF METER.

(ESID) 10443720000078997

Exhibit B - Site Plan



SITE PLAN
 A-101 1/16" = 1'-0"



CONTRACTOR

CIRCLE L SOLAR, INC.
 PHONE: 817-945-2011
 ADDRESS: 3914 SANDHILL CANY
 FORT WORTH, TX 76117
 LIC. NO.: P/A-052217-617791
 REC. NO.
 ELEC. NO. 32627

NEW PV SYSTEM: 6.2 kWp

**BUCK
RESIDENCE**

414 SUNSET COURT
WAXAHACHIE, TX 75165

(19)

**ENGINEER OF
RECORD**

PAPER SIZE: 11" x 17" (ANSI B)

SITE PLAN

DATE: 08.15.2019
 DESIGN BY: TDA
 CHECKED BY: JT
 REVISIONS

A-101.00

(13)

RECEIVED
10/21/19



City of Waxahachie, Texas
Notice of Public Hearing
Case Number: SU-19-0122



PANTOJA JESUS JR & GUADALUPE C
412 SAGEBRUSH LN
WAXAHACHIE, TX 75165

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, October 15, 2019 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, October 21, 2019 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

- 1. Request by Brandon Brown, Circle L Solar, for a Specific Use Permit (SUP) for Rooftop Solar Panel System use within a Planned Development-Single Family-2 zoning district, located at 414 Sunset Court (Property ID 265783) – Owner: TODD A AND REBECCA K BUCK (SU-19-0122)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: Planning@Waxahachie.com for additional information on this request.

Case Number: SU-19-0122
City Reference: 258802

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on *Wednesday, October 9, 2019* to ensure inclusion in the Agenda Packet. Forms can be e-mailed to Planning@Waxahachie.com.

SUPPORT OPPOSE

Comments: _____

Jesus J Pantoja Jr
Signature

10-15-19
Date

H. Pantoja Jr
Printed Name and Title

412 Sagebrush Ln
Address

It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)

If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.

Case SU-19-0122
 Responses Received Inside Required 200' Notification Area
 Support: 1 Oppose: 0

PropertyID	Owner's Name	Acres	Legal Description	Owner's Address	Owner's City	Owner's State	Owner's ZIP	Physical Address
265787	SANTOS DEREK H & NATALIE	0.34	LOT 8 BLK 1 PARK PLACE PH 3 .34 AC	406 SUNSET CT	WAXAHACHIE	TX	75165	406 SUNSET CT WAXAHACHIE TX 75165
265786	SALVADOR FAMILY HOLDINGS LTD	0.25	LOT 7 BLK 1 PARK PLACE PH 3 0.25 AC	509 FERRIS AVE	WAXAHACHIE	TX	75165	408 SUNSET CT WAXAHACHIE TX 75165
258806	NORTHCUTT MATT & LAURA C	0.213	LOT 3 BLK 4 PARK PLACE PH 2 .213 AC	409 SAGEBRUSH LN	WAXAHACHIE	TX	75165	409 SAGEBRUSH LN WAXAHACHIE TX 75165
265789	VILLANUEVA MIGUEL A & ANNA C	0.35	LOT 10 BLK 1 PARK PLACE PH 3 .35 AC	409 SUNSET CT	WAXAHACHIE	TX	75165	409 SUNSET CT WAXAHACHIE TX 75165
265785	SUNDBLAD MICHAEL D & LORI L	0.21	LOT 6 BLK 1 PARK PLACE PH 3 .21 AC	410 SUNSET CT	WAXAHACHIE	TX	75165	410 SUNSET CT WAXAHACHIE TX 75165
258807	RAY KILYONDA V	0.204	LOT 4 BLK 4 PARK PLACE PH 2 .204 AC	411 SAGEBRUSH LN	WAXAHACHIE	TX	75165	411 SAGEBRUSH LN WAXAHACHIE TX 75165
265790	DEAPOLONIO CHRISTOPHER M & TIFFANY B	0.24	LOT 11 BLK 1 PARK PLACE PH 3 .24 AC	411 SUNSET CT	WAXAHACHIE	TX	75165	411 SUNSET CT WAXAHACHIE TX 75165
258802	PANTOJA JESUS JR & GUADALUPE C	0.206	LOT 22 BLK 3 PARK PLACE PH 2 .206 AC	412 SAGEBRUSH LN	WAXAHACHIE	TX	75165	412 SAGEBRUSH LN WAXAHACHIE TX 75165
265784	REYES SOLIS RAMON & PERLA Y VILLANUEVA	0.21	LOT 5 BLK 1 PARK PLACE PH 3 .21 AC	412 SUNSET CT	WAXAHACHIE	TX	75165	412 SUNSET CT WAXAHACHIE TX 75165
258808	WILBURN GARY D & LINDA M	0.203	LOT 5 BLK 4 PARK PLACE PH 2 .203 AC	413 SAGEBRUSH LN	WAXAHACHIE	TX	75165	413 SAGEBRUSH LN WAXAHACHIE TX 75165
265791	GONZALEZ NATALIE L	0.3	LOT 12 BLK 1 PARK PLACE PH 3 .3 AC	413 SUNSET CT	WAXAHACHIE	TX	75165	413 SUNSET CT WAXAHACHIE TX 75165
258801	CROUCH MICHAEL S & LISA J	0.179	LOT 21 BLK 3 PARK PLACE PH 2 .179 AC	414 SAGEBRUSH LN	WAXAHACHIE	TX	75165	414 SAGEBRUSH LN WAXAHACHIE TX 75165
265783	BUCK TODD A & REBECCA K	0.19	LOT 4 BLK 1 PARK PLACE PH 3 .19 AC	414 SUNSET CT	WAXAHACHIE	TX	75165	414 SUNSET CT WAXAHACHIE TX 75165
258809	CALE KELLY	0.192	LOT 6 BLK 4 PARK PLACE PH 2 .192 AC	415 SAGEBRUSH LN	WAXAHACHIE	TX	75165	415 SAGEBRUSH LN WAXAHACHIE TX 75165
265792	MILLER LYNN & ROY	0.26	LOT 13 BLK 1 PARK PLACE PH 3 .26 AC	415 SUNSET CT	WAXAHACHIE	TX	75165	415 SUNSET CT WAXAHACHIE TX 75165
258800	YOUNG DAVID P & LORRAINE A	0.179	LOT 20 BLK 3 PARK PLACE PH 2 0.179 AC	416 SAGEBRUSH LN	WAXAHACHIE	TX	75165	416 SAGEBRUSH LN WAXAHACHIE TX 75165
265782	CABEEN CHRISTOPHER JAMES & NELLY EDELVINA	0.2	LOT 3 BLK 1 PARK PLACE PH 3 0.2 AC	416 SUNSET CT	WAXAHACHIE	TX	75165	416 SUNSET CT WAXAHACHIE TX 75165
258810	TYNER RODERICK D SR & ANGELA P	0.192	LOT 7 BLK 4 PARK PLACE PH 2 .192 AC	417 SAGEBRUSH LN	WAXAHACHIE	TX	75165	417 SAGEBRUSH LN WAXAHACHIE TX 75165
265793	CASTLE SAMUEL N	0.24	LOT 14 BLK 1 PARK PLACE PH 3 0.24 AC	417 SUNSET CT	WAXAHACHIE	TX	75165	417 SUNSET CT WAXAHACHIE TX 75165
265781	CORDERO DOLORES V	0.2	LOT 2 BLK 1 PARK PLACE PH 3 0.2 AC	418 SUNSET CT	WAXAHACHIE	TX	75165	418 SUNSET CT WAXAHACHIE TX 75165
258811	RACHALL JOHNNIE & ANGELA D	0.192	LOT 8 BLK 4 PARK PLACE PH 2 .192 AC	419 SAGEBRUSH LN	WAXAHACHIE	TX	75165	419 SAGEBRUSH LN WAXAHACHIE TX 75165
265794	KLACMAN MARGARET	0.22	LOT 15 BLK 1 PARK PLACE PH 3 .22 AC	419 SUNSET CT	WAXAHACHIE	TX	75165	419 SUNSET CT WAXAHACHIE TX 75165
265780	CONTRERAS RAUL	0.24	LOT 1 BLK 1 PARK PLACE PH 3 .24 AC	420 SUNSET CT	WAXAHACHIE	TX	75165	420 SUNSET CT WAXAHACHIE TX 75165
258812	CASTILLO ROBERT B & CRYSTAL GALE	0.213	LOT 9 BLK 4 PARK PLACE PH 2 .213 AC	421 SAGEBRUSH LN	WAXAHACHIE	TX	75165	421 SAGEBRUSH LN WAXAHACHIE TX 75165
265795	CONROY MICHAEL J & TERESA M	0.26	LOT 16 BLK 1 PARK PLACE PH 3 0.26 AC	421 SUNSET CT	WAXAHACHIE	TX	75165	421 SUNSET CT WAXAHACHIE TX 75165

(6)

(14)

Planning & Zoning Department

Zoning Staff Report



Case: PD-19-0119

MEETING DATE(S)

Planning & Zoning Commission: October 15, 2019

City Council: October 21, 2019

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held October 15, 2019, the Commission voted 6-0 to recommend approval of case number PD-19-0119, subject to staff comments.

It should be noted that this request is for a Planned Development (PD) Concept Plan. The second part of the PD process is the Detailed Site Plan. If the Concept Plan ordinance is adopted, then the applicant's Detailed Site Plan will be administratively reviewed and can be approved in accordance with the Concept Plan.

CAPTION

Public Hearing on a request by Mark Thedford, Akamai Designs, for a Zoning Change from a Single-Family Residential-3 zoning district to Planned Development-Single-Family Residential-3, with Concept Plan, located at 1609 Cleaver Street (Property ID 182093) - Owner: AKAMAI DESIGNS INC (PD-19-0119)

CASE INFORMATION

Applicant: Mark Thedford, Akamai Designs

Property Owner(s): Akamai Designs Inc.

Site Acreage: 2.257 acres

Current Zoning: Single Family Residential-3

Requested Zoning: Planned Development-Single Family-3

SUBJECT PROPERTY

General Location: 1609 Cleaver Street

Parcel ID Number(s): 182093

Existing Use: Undeveloped Land

Development History: N/A

114)

Adjoining Zoning & Uses:

Direction	Zoning	Current Use
North	SF3	Fire Station
East	SF3	Undeveloped Land
South	PD	Undeveloped Land
West	SF3	Single Family Residences

Future Land Use Plan:

Low Density Residential

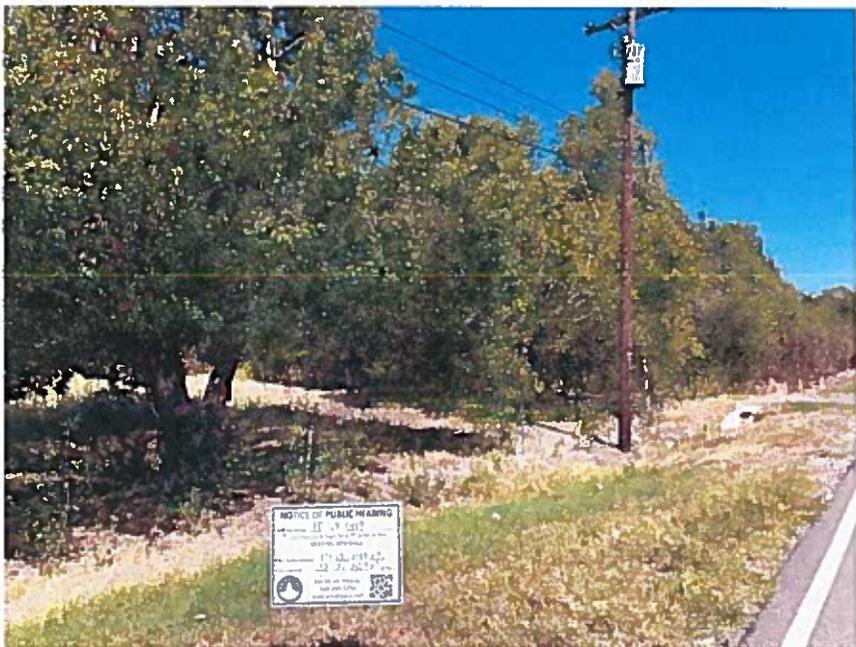
Comprehensive Plan:

This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie's current development is of similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

Thoroughfare Plan:

The subject property is accessible via Cleaver Rd.

Site Image:



PLANNING ANALYSIS

Purpose of Request:

The purpose of this request is to create a Planned Development to allow for the development of thirteen (13) single family attached townhomes built on thirteen (13) individual lots.

Proposed Use:

The applicant is requesting approval for a zoning change from Single Family-3 to Planned Development- Single Family-3 to allow construction of thirteen (13) individual lot townhomes on 2.257 acres along Cleaver St. The townhomes will be two stories, and a common area will be provided within the development.

The Concept Plan depicts a horizontal residential development that includes (but not limited to) elements/amenities such as:

- Low Insulated windows
- Home Owner’s Association
- Landscape Maintenance
- High Speed Internet
- Garages

Conformance with the Comprehensive Plan:

Residential developments can include low density residential, medium density residential, and high density residential. The proposed development is consistent with the FLUP and the following goals and objectives in the 2016 Comprehensive Plan Addendum:

- Future Land Use – Goal 1: Encourage the most desirable, efficient use of land while maintaining and enhancing local aesthetics.
- Growth Strategies – Goal 12: Promote growth of the community where infrastructure exists.

Development Standards:

The applicant is proposing a base zoning district of Single Family-3 (SF3). Allowed uses shall be those provided within the City of Waxahachie Zoning Ordinance for Single Family-3 with additional changes listed below.

Permitted Uses:

- Townhomes

Table 2: Proposed Planned Development Residential Standards (Single Family-A)

**Items highlighted in bold do not meet the City of Waxahachie requirements*

***It should be noted that section 5.09 (SF-A) of the City of Waxahachie Zoning Ordinance allows the use of townhomes*

Standard	City of Waxahachie	Creekwood Proposed	Meets Y/N
Max. Density	12 DU per acre	6 DU per acre	Yes
Min. Dwelling Unit (Sq. Ft.)	1,000	1,400	Yes
Min. Front Yard (Ft.)	15	15	Yes
Min. Side Yard (Ft.)	0; 25 (adjacent to SF)	0; 25 (adjacent to SF)	Yes
Min. Rear Yard (Ft.)	10; 25 (adjacent to SF)	10; 25 (adjacent to SF)	Yes
Max. Height	2 stories	2 stories	Yes
Max. Lot Coverage (%)	50	50	Yes

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City’s public hearing notice requirements, 6 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Daily Light and a sign was visibly posted at the property on 9/25/2019.

STAFF CONCERNS

1. Staff has no outstanding concerns for the applicant.

APPLICANT RESPONSE TO CONCERNS

1. The applicant has addressed staff concerns.

(14)

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:
 1. Approval for the Planned Development is contingent upon a Developer's Agreement.
 2. The development is allowed up to thirteen (13) townhomes for the site.
 3. A sidewalk can be installed within the right-of-way (ROW).
 4. If approved, any remaining Engineering comments shall be addressed on the Site Plan reviewed by staff.
 5. The applicant will bring the building forward 10 ft. to allow for additional parking and landscaping in the rear of the property.

ATTACHED EXHIBITS

1. Ordinance
2. Location Exhibit
3. Planned Development Provisions
4. Concept Plan
5. Elevation/Façade Plan and Floor Plan

APPLICANT REQUIREMENTS

1. If approved by City Council, within 30 days the applicant shall provide the Planning Department one revised electronic plan set that incorporates all comments.
2. Once the revised plans are provided, staff will verify all outstanding comments were satisfied.
 - a. If comments were not satisfied, then applicant will be notified to make corrections.
 - b. If all comments satisfied, applicant shall provide a set of drawings that incorporate all comments.

STAFF CONTACT INFORMATION

Prepared by:
 Colby Collins
 Senior Planner
ccollins@waxahachie.com

Reviewed by:
 Shon Brooks, AICP
 Director of Planning
sbrooks@waxahachie.com

(15)

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM SINGLE FAMILY-3 (SF3) TO PLANNED DEVELOPMENT- SINGLE FAMILY DISTRICT-3 (PD-SF3), WITH CONCEPT PLAN LOCATED AT 1609 CLEAVER STREET IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 2.257 ACRES, KNOWN AS PROPERTY ID 182093 OF THE S M DURRETT ABSTRACT, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

WHEREAS, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

WHEREAS, a proper application for a PD, with Concept Plan has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number PD-19-0119. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change approval of the subject property from SF3 to PD-SF3, with Concept Plan; and

WHEREAS, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

WHEREAS, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

NOW, THEREFORE, this property is rezoned from SF3 to PD-SF3, with Concept Plan in order to facilitate development of the subject property in a manner that allows townhome structures on the following property: Property ID 182093 of the S M Durrett abstract, which is shown on Exhibit A, in accordance with the Planned Development Provisions attached as Exhibit B, Concept Plan attached as Exhibit C, and Elevation/Façade and Floor Plan Layout attached as Exhibit D.

PLANNED DEVELOPMENT

Purpose and Intent

The purpose of this planned development to create a residential townhome development and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

Development Standards

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. The locations of buildings, driveways,

(15)

parking areas, amenity areas, trails, fencing, and other common areas shall substantially conform to the locations shown on the approved Concept Plan (Exhibit C).

Development Regulations

1. Per the applicant's request, a Developer's Agreement will be required for the property.
2. The development is allowed up to thirteen (13) townhomes for the site.
3. A sidewalk can be installed within the right-of-way (ROW).
4. The Concept Plan shall conform as approved by the City Council under case number PD-19-0119.
5. Any zoning, land use requirement, or restriction not contained within this zoning ordinance shall conform to those requirements and/or standards prescribed in Exhibits B – Planned Development Provisions. Where regulations are not specified in Exhibit B or in this ordinance, the regulations of Single Family-Attached zoning district of the City of Waxahachie Zoning Ordinance shall apply to this development.
6. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

PASSED, APPROVED, AND ADOPTED on this 21st day of October, 2019.

MAYOR

ATTEST:

City Secretary



Exhibit A - Location Exhibit

0 300 600 1,200 1,800 2,400 Feet

PD-19-0119

(15)

(16)

EXHIBIT "B"

Planned Development Provisions

Purpose and Intent

The purpose and intent of this Planned Development (PD) is to allow for the development of 13 single family attached townhomes built on 13 individual lots using permitted architectural styles for new construction.

Compliance with the City's Comprehensive Plan

Zoning District (SF-3) is the intended base zoning classification underlying this PD.

Description of Request

- Intend to modify the existing zoning requirements under a Planned Development which will allow for the development of Single Family townhomes consisting of 13 homes.

Proposed Use of Property

- The proposed development is for 2 story townhomes consisting of 13 single family attached homes and common areas which will use a similar style as listed in the Waxahachie development standards approved by all authorities governing in the City of Waxahachie. We intend to break ground as soon as approved, with completion within 12 month window. CREEKWOOD HOA INC (homeowners association) will be formed with fees collected for perpetual maintenance.

General Development Requirements

- **Concept Plan:** The Concept Plan is part of the proposed plan documents
- **Density:** 6 residences per acre
- **Exterior:** The exterior shall consist of 100% brick and Austin stone with cast stone, colored metal accents
- **Parking:** Each lot shall have minimum 1 enclosed parking behind front building plane
- **Open Space/Landscaping:** Shall comply with SF-3 landscaping requirements
- **Front yard setback:** Minimum 15'
- **Side Setbacks:** Shall be 0' (25' if adjacent to SF detached)
- **Rear Setback:** Shall be 10'; 25' (if adjacent to SF detached)
- **Garages:** Each Townhome shall have one (1) one car garage
- **Maximum Height:** 2 stories
- **Minimum DUA:** 1400 sq. ft.

***NOTE: Development requirements shall meet or exceed SEC. 5.09 Code of Ordinances
CITY OF WAXAHACHIE**

(15)

Amenities:

- Range (stove/oven)
- Argon Low e insulated windows
- Iron front doors
- Granite countertops
- Spray foam insulation (energy star rated)
- Sprinkler system
- Insect control
- Perpetual lawn care and maintenance
- HOA
- Heat pump a/c system
- Wired alarm system with internet access
- 8 foot high garage doors with belt drive openers with internet access capability
- High speed internet hardwired throughout
- Plush landscaping
- Optional parking
- Oversized 1 car garages with storage area
- Back patio's
- Fenced back yards

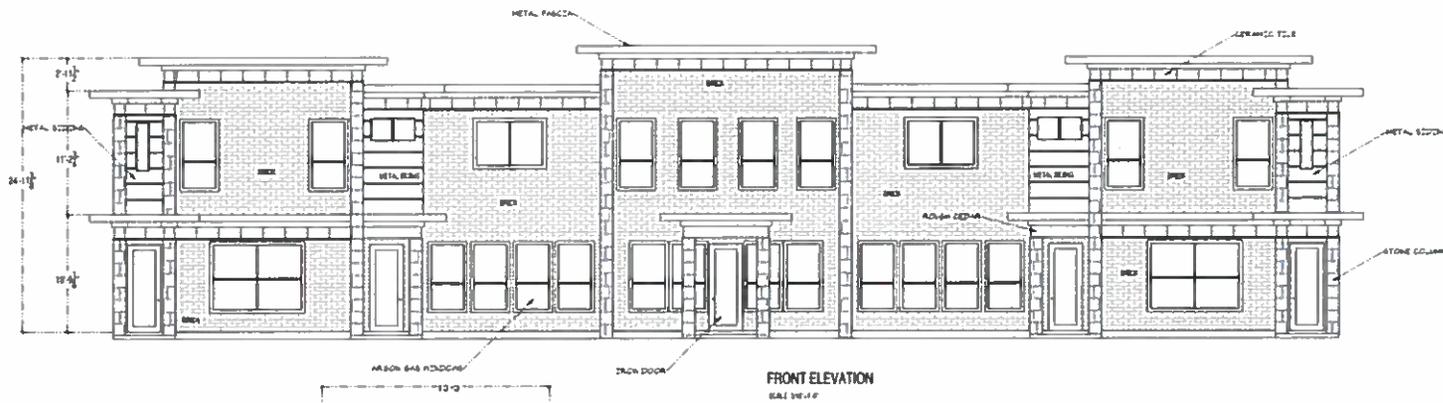
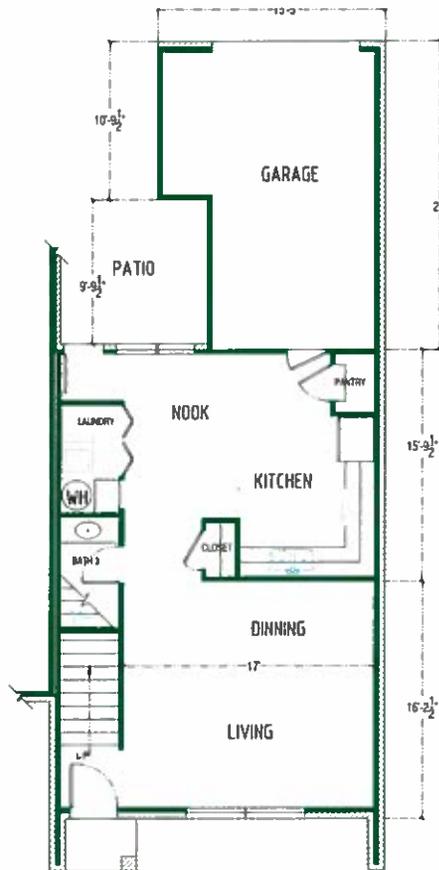


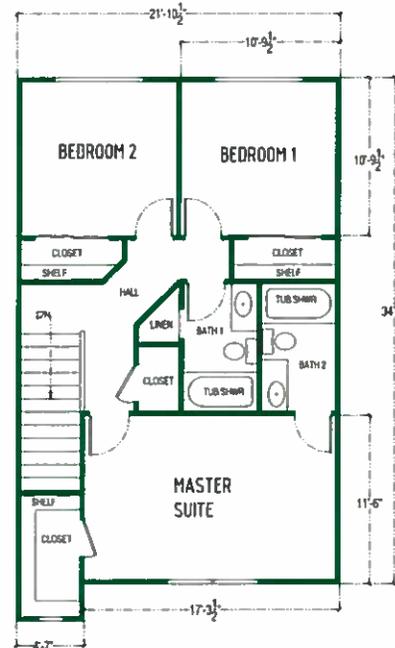
Exhibit D - Elevation/Facade and Floor Plan Layout



718 SQ. FT
FLOOR 1
SCALE: 1/4"

757 SQ. FT
FLOOR 2
SCALE: 1/4"

TOTAL = 1475 SQ. FT
SCALE: 1/4"



General Notes

AKAMAI DESIGNS INC
Honolulu, Hawaii
(469) 843-3331

No	Revision/Issue	Date
	MST	

FRONT
ELEVATION/
FLOOR PLANS

Project Name/ Address

CREEKWOOD

Date	Sheet
08/26/19	3

15

(16)

Planning & Zoning Department

Zoning Staff Report

Case: PD-19-0114



MEETING DATE(S)

Planning & Zoning Commission: October 15, 2019

City Council: October 21, 2019

ACTION SINCE INITIAL STAFF REPORT

At the Planning & Zoning Commission meeting, held October 15, 2019, the Commission voted 6-0 to recommend approval of case number PD-19-0114, subject to staff comments.

It should be noted that this request is for a Planned Development (PD) Concept Plan. The second part of the PD process is the Detailed Site Plan. If the Concept Plan ordinance is adopted, then the applicant's Detailed Site Plan will be administratively reviewed and can be approved in accordance with the Concept Plan.

CAPTION

Public Hearing on a request by Maxwell Fisher, Masterplan., for a Zoning Change from a Multiple Family-2 zoning district to Planned Development-Multiple Family-2, with Concept Plan, located at the SW corner of Garden Valley Parkway at Goodnight Lane (Property ID 275562) - Owner: KALTERRA CAPITAL PARTNERS LLC (PD-19-0114)

CASE INFORMATION

Applicant: Maxwell Fisher, Master Plan

Property Owner(s): Kalterra Capital Partners LLC

Site Acreage: 7.793 acres

Current Zoning: Multiple Family-2

Requested Zoning: Planned Development-Multiple Family-2

SUBJECT PROPERTY

General Location: SW corner of Garden Valley Parkway at Goodnight Lane

Parcel ID Number(s): 275562

Existing Use: Currently Undeveloped

Development History: N/A

(10)

Adjoining Zoning & Uses:

Direction	Zoning	Current Use
North	MF2	Currently Undeveloped
East	PD-SF2	Garden Valley Phase I
South	PD-GR & GR	Currently Undeveloped
West	SF1	Sports Complex

Future Land Use Plan: Low Density Residential

Comprehensive Plan: This category is representative of smaller single family homes and some duplex units. The majority of Waxahachie’s current development is of similar density. It is appropriate to have approximately 3.5 dwelling units per acre.

Thoroughfare Plan: The subject property is accessible via Garden Valley Pkwy.

Site Image:



PLANNING ANALYSIS

Purpose of Request:

The purpose of this request is to create a senior age restricted residential development within a Planned Development zoning district.

Proposed Use:

The applicant is requesting approval for a zoning change to accommodate development of a senior age-restricted residential community on 7.793 acres located on Garden Valley Parkway between Park Place Boulevard and Broadhead Road. Proposed uses within the development will include Housing for the Elderly/Senior Apartments, Assisted Living and Skilled Nursing Facility (not shown on the plan, but the applicant would like for it to be a permitted use).

The Concept Plan depicts a residential development that includes elements such as:

- Trash/Recycle Pickup
- Private Salon
- Common Area
- On-site Transit Service

Conformance with the Comprehensive Plan:

Residential developments can include low density residential, medium density residential, and high density residential. The proposed development is consistent with the FLUP and the following goals and objectives in the 2016 Comprehensive Plan Addendum:

- **Growth Strategies – Goal 12:** Promote growth of the community where infrastructure exists.

Development Standards:

The applicant is proposing a base zoning district of Multi Family-2 (MF2). Allowed uses shall be those provided within the City of Waxahachie Zoning Ordinance for Multi Family-2 with additional changes listed below.

Permitted Uses:

- Senior Apartments
- Assisted Living
- Skilled Nursing Facility

Table 2: Proposed Planned Development Standards (Multi Family-2)

**Items highlighted in bold do not meet the City of Waxahachie requirements*

Standard	City of Waxahachie	Garden Valley Senior Housing Proposed	Meets Y/N
Max. Density	18 DU per acre	23 DU per acre	No
Min. Lot Area (Sq. Ft.)	2,420 SF/Unit	1,930 SF/Unit	No
Max. Unit Count	140	175	No
Min. Dwelling Unit	1 bedroom – 600 SF 2 bedroom – 700 SF	1 bedroom – 650 SF 2 bedroom – 980 SF	Yes
Min. Lot Width (Ft.)	60	60	Yes
Min. Lot Depth (Ft.)	120	120	Yes
Min. Front Yard (Ft.)	25 (75>2) SF 25 (100>2)	25 (75>2) 25 (100>2)	Yes
Min. Side Yard (Ft.)	50 (75>2) SF 25 (100>2)	25 (100>2)	Yes
Min. Rear Yard (Ft.)	50 (75>2) SF	25	No
Max. Height	3 stories	3 stories	Yes
Max. Lot Coverage (%)	40	40	Yes

Additional Applicant (Variance/Special Exception) Request/Notes:

- **Building Length:** The applicant is proposing a building length of 420 ft. *The maximum allowed building length is 200 ft.*
- **Exterior Material:** The applicant is proposing cementitious fiberboard siding. Per the City of Waxahachie Zoning Ordinance, the material is not allowed. *House Bill 2439 allows the use of the material. No single building elevation is comprised of more than 50% of the material.*

(10)

- **Attached Garages:** The proposed development requires a minimum of 50% of the parking to be attached garages. The applicant is requesting to provide a minimum of 25% attached parking for the development.
- **Landscape Plan:**
 - **Canopy Tree:** 100 Canopy trees are required (1 every 500 ft.). The applicant is providing 78.
 - **Understory Tree:** 200 understory trees are required (1 every 250 ft.). The applicant is providing 100.

It should be noted that the applicant is exceeding the required landscape area by more than 30%. The applicant is only requesting exceptions from the aforementioned landscape requirements.

PON RESPONSES

Staff has received three (3) letters of support for the proposed development.

PUBLIC NOTIFICATIONS

To comply with State law contained in Local Government Code Chapter 211 and the City's public hearing notice requirements, 10 notices were mailed to property owners within 200 feet of the request. In addition, a notice was published in the Waxahachie Daily Light and a sign was visibly posted at the property on 9/25/2019.

STAFF CONCERNS

1. **Attached Garages:**
The proposed development requires a minimum of 50% (87.5 spaces) of the parking to be attached garages. The applicant is requesting to provide a minimum of 25% (54) attached parking for the development.
2. **Skilled Nursing Facility:**
Per the City of Waxahachie Zoning Ordinance, there shall be "no long-term or permanent skilled nursing care or related services are provided" under the Housing for the Elderly/Senior Apartments Use. The applicant currently has a Skilled Nursing Facility as a permitted use for the development.

APPLICANT RESPONSE TO CONCERNS

1. Per the submittal by the applicant, "additional garages will not be needed or demanded by residents, as a majority do not drive or will use the on-site transit service... Additional garages displace ground floor living units and discourages interaction among residents".
2. The applicant understands staff's concerns and intends to state his reasoning at the October 21, 2019 City Council meeting.

RECOMMENDATION

Based on the details provided in this Staff Report and the present status of the documents subject to the request, the Planning and Zoning Department recommends:

- Denial
- Approval, as presented.
- Approval, per the following comments:
 1. Approval for the Planned Development is contingent upon a Developer's Agreement.

- 2. A 6 ft. wrought iron fence with masonry columns (positioned every 30 ft.) shall be provided facing the right-of-way. No masonry columns are required along the sides and rear of the property.
- 3. If approved, per this Planned Development, a Skilled Nursing Facility shall be defined as "Skilled nursing, physical therapy, and similar health care professional are allowed as an accessory use not exceeding 5% of the total floor area. Treatments may take place within individual residences or designated facilities within the building. These services are limited to residents of the facility for the purpose of maintaining, restoring, and improvement movement, activity and body function, thereby providing well-being and an improved quality of life." The therapy and rehabilitation services can only be provided by a skilled or licensed nurse (or LVN), physical therapist, or trainer.

ATTACHED EXHIBITS

- 1. Ordinance
- 2. Location Exhibit
- 3. Planned Development Provisions/Land Use Statement
- 4. Site Plan
- 5. Landscape Plan
- 6. PON Responses

APPLICANT REQUIREMENTS

- 1. If approved by City Council, within 30 days the applicant shall provide the Planning Department one revised electronic plan set that incorporates all comments.
- 2. Once the revised plans are provided, staff will verify all outstanding comments were satisfied.
 - a. If comments were not satisfied, then applicant will be notified to make corrections.
 - b. If all comments satisfied, applicant shall provide a set of drawings that incorporate all comments.

STAFF CONTACT INFORMATION

Prepared by:
 Colby Collins
 Senior Planner
ccollins@waxahachie.com

Reviewed by:
 Shon Brooks, AICP
 Director of Planning
sbrooks@waxahachie.com

(17)

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A ZONING CHANGE FROM MULTI FAMILY-2 (MF2) TO PLANNED DEVELOPMENT-MULTI-FAMILY-2 (PD-MF2), WITH CONCEPT PLAN LOCATED AT THE SOUTHWEST CORNER OF GARDEN VALLEY AND GOODNIGHT LANE IN THE CITY OF WAXAHACHIE, ELLIS COUNTY, TEXAS, BEING 7.793 ACRES, KNOWN AS PROPERTY ID 275562, AND ORDERING THE CHANGING OF THE ZONING MAP THEREOF IN ACCORDANCE WITH SAID CHANGE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

WHEREAS, the City Council of the City of Waxahachie having heretofore adopted a zoning ordinance and map showing the classification of the various property located within the city limits of said City; and

WHEREAS, a proper application for a PD, with Concept Plan has been made in accordance with the zoning ordinances in the City of Waxahachie and said application has been assigned case number PD-19-0114. Said application, having been referred to the Planning and Zoning (P&Z) Commission for their final report, was recommended by the P&Z Commission for zoning change approval of the subject property from MF2 to PD-MF2, with Concept Plan; and

WHEREAS, proper notification has been published for the time and in the manner as prescribed by the city ordinance of the City of Waxahachie for a public hearing thereon; and

WHEREAS, a proper hearing was held as required by law and the Council having heard all arguments for and against said zoning amendment;

NOW, THEREFORE, this property is rezoned from MF2 to PD-MF2, with Concept Plan in order to facilitate development of the subject property in a manner that allows Senior Age-Restricted residential development on the following property: Property ID 275562, which is shown on Exhibit A, in accordance with the Planned Development Provisions/Land Use Statement attached as Exhibit B, Site Plan attached as Exhibit C, and Landscape Plan attached as Exhibit D.

PLANNED DEVELOPMENT

Purpose and Intent

The purpose of this planned development to create a senior age-restricted residential development and to establish appropriate restrictions and development controls necessary to ensure predictable land development, safe and efficient vehicular and pedestrian circulation, compatible uses of land and compliance with appropriate design standards.

Development Standards

All development on land located within the boundaries of this Planned Development District shall adhere to the rules and regulations set forth in this ordinance. The locations of buildings, driveways, parking areas, amenity areas, trails, fencing, and other common areas shall substantially conform to

(17)

the locations shown on the approved Site Plan (Exhibit C).

Development Regulations

1. Per the applicant’s request, a Developer’s Agreement will be required for the property.
2. A 6 ft. wrought iron fence shall be provided along the side(s) and rear of the property. A 6 ft. wrought iron fence with masonry columns (positioned every 30 ft.) shall be provided facing the right-of-way (ROW).
3. Per this Planned Development, a Skilled Nursing Facility shall be defined as “Skilled nursing, physical therapy, and similar health care professional are allowed as an accessory use not exceeding 5% of the total floor area. Treatments may take place within individual residences or designated facilities within the building. These services are limited to residents of the facility for the purpose of maintaining, restoring, and improvement movement, activity and body function, thereby providing well-being and an improved quality of life.” The therapy and rehabilitation services can only be provided by a skilled or licensed nurse (or LVN), physical therapist, or trainer.
4. The Site Plan shall conform as approved by the City Council under case number PD-19-0114.
5. Any zoning, land use requirement, or restriction not contained within this zoning ordinance shall conform to those requirements and/or standards prescribed in Exhibits B – Planned Development Provisions. Where regulations are not specified in Exhibit B or in this ordinance, the regulations of Multi Family-2 zoning district of the City of Waxahachie Zoning Ordinance shall apply to this development.
6. The development shall maintain compliance with all Federal, State and Local regulations; including, but not necessarily limited to, all applicable standards and regulations of the City of Waxahachie Municipal Code and City of Waxahachie Zoning Ordinance.

An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage.

The zoning map of the City of Waxahachie is hereby authorized and directed to be demarked in accordance therewith.

PASSED, APPROVED, AND ADOPTED on this 21st day of October, 2019.

MAYOR

ATTEST:

City Secretary



Exhibit A - Location Exhibit

107

(17)

Exhibit B

DEVELOPMENT PROVISIONS

Garden Valley Planned Development

Use Allowed by Right: All uses of the MF-2 District including a senior, age-restricted residential community that may or may not include the following uses: Housing for the Elderly/Senior Apartments and Home for Aged, Residence (Assisted Living).

Concept Plans: Concept plans are not required.

Detailed Site Plan: Senior, age-restricted residential community uses are subject to approval of a Detailed Site Plan. All other MF-2 Uses, including Multi-Family, are not subject to approval of a Detailed Site Plan. In the event of conflict between the Detailed Site Plan and the conditions herein, the conditions herein prevail.

Landscape Plan: Landscaping shall be provided as generally shown on the Landscape Plan. In the event of a conflict between the Landscape Plan and the conditions herein or in the Code of Ordinances, the PD conditions prevail.

Development Standards: Unless specified herein, development is subject to the MF-2 District Regulations. An age-restricted residential community is subject to the following standards:

Density: A maximum of 23 dwelling units per acre

The maximum number of units is 175.

The maximum number of 3-bedroom units is 8.

Lot area, width, depth, and coverage:

- Minimum lot area: 1,930 square foot per unit
- Minimum lot width: 60 feet
- Minimum lot depth: 120 feet
- Maximum lot coverage: 40 percent

Yard depths and widths:

- Minimum front yard: 25'/75'
- Minimum side yard: 25'/100', 3-story building
- Minimum rear yard: 25'/75'

Building height: 3 stories/ 1 story

Minimum Dwelling Unit Area:

- 1-bed: 650 SF
- 2-bed: 980 SF

(17)

Building elevations:

- Roof pitch: 4:1 or greater

Maximum building length

- 420 feet for main building
- 200 feet for peripheral buildings

Parking and Access: Unless specified herein, development is subject to the MF-2 District Regulations. An age-restricted residential community is subject to the following standards:

A minimum of 25% of required parking spaces provided in garages.

Landscape and Screening: Unless specified herein, development is subject to the MF-2 District Regulations. An age-restricted residential community is subject to the following standards:

- Canopy trees: A minimum of 78 canopy trees.
- Understory trees: A minimum of 100 understory trees.

Solid perimeter screening is not required. An ornamental iron fence is required around the perimeter and generally shown on the site plan.

Exterior Building Materials: A minimum of 90% of each exterior building elevation shall be comprised of masonry material as defined the Waxahachie Zoning Ordinance with one exception. Cementitious fiberboard siding is an acceptable masonry material provided that no single elevation is comprised of more than 50% cementitious fiberboard siding.

Accessory Buildings: Accessory buildings are not anticipated, as the clubhouse and leasing facilities are anticipated to be incorporated into the larger central structure on the site; however, any accessory structure will comply with the requirements as set forth in the City of Waxahachie Zoning Ordinance.

Signs and Lighting: Unless specified herein, development is subject to the MF-2 District Regulations and Performance Standards.

Amenities: The following amenities are required: trash collection, a private salon, a pool, common area and transit service.

Project Phasing: The project is anticipated to be constructed in a single phase, with construction expected to commence approximately one year from zoning approval. Construction is expected to take approximately 18 months upon commencement.

Management Associations: No management association has been identified for the project at this time. Professional leasing and management of the facility is expected.

(17)

Miscellaneous

- **Refuse Facilities**: A waiver to the minimum distance to a trash facility is also requested. The proposed project will include valet trash pick-up for residents as an amenity to reduce resident trips to refuse facilities, and this waiver will allow for greater flexibility in placement to reduce impact on the pedestrian path on the north side of the property. No waiver is requested to the minimum number of facilities needed or required screening.

(17)

Exhibit B

Land Use Statement

Garden Valley Planned Development

Introduction

This rezoning request seeks to modify zoning on the subject property to accommodate development of a luxury senior, age-restricted residential community on 7.793 acres. The subject property is located on Garden Valley Parkway between Park Place Boulevard and Broadhead Road.

Proposed Uses

The proposed Planned Development would retain all the MF-2 uses currently permitted and allow a senior living age-restricted facility. These rights carried forward would include by-right apartment development subject to the use, zoning and development regulations of the MF-2 District.

Proposed Yard, Lot, and Space Regulations

The proposed project would increase the allowable density and decrease the minimum lot area per unit to accommodate the associated density with a senior, age-restricted residential community. These requirements would only apply to age-restricted living facilities. Any other multi-family uses currently allowed in MF-2 would be required to meet all City of Waxahachie development standards for MF-2. The deviations from the MF-2 Standards are in bold font.

Standard	MF-2 Standards	Proposed PD
Maximum Density	18 DU/A	23 DU/A
Minimum Lot Area	2,420 SF/unit	1,930 SF/unit
Maximum Unit Count	140	175
Minimum Lot Width	No Change (60 feet)	
Minimum Lot Depth	No Change (120 feet)	
Maximum Lot Coverage	No change (40 percent)	
Minimum Front Yard	No Change (25'/75')	
Minimum Side Yard	25'/100'	25'/100'
Minimum Rear Yard	50'/75'	25'/75'
Building Height	No Change (1 and 3 stories)	
Minimum DUA	1-bed – 600 SF 2-bed – 700 SF	1-bed – 650 SF 2-bed – 980 SF

(17)

Building Elevations (VARIANCE REQUESTED)

The proposed development includes one- and three-story buildings that will meet the required architectural requirements of the City of Waxahachie Zoning Ordinance. The proposed project will be made up of five buildings. Single-story buildings will be located along the east and west perimeter to maintain a more residential feel and buffer to the larger three-story facility in the center of the site.

Two minor adjustments to building elevation requirements are requested with this project:

Standard	MF-2 Standards	Proposed PD
Roof Pitch	7:12	4:1 or greater
Building Length	200 feet	420 feet

The perimeter one-story buildings all comply with the maximum length requirement. The 3-story building exceeds the length parameter. This adjustment is necessary to accommodate unit yield and provide an expansive interior courtyard. The building is located interior and will be partially blocked by the perimeter buildings and landscaping. Moreover, the architecture detail and building articulation further break up the building and create visual appeal.

Exterior Building Materials (VARIANCE REQUESTED)

A minimum of 90% of each elevation shall be comprised of masonry as defined in the Waxahachie Zoning Ordinance with one exception. Cementitious fiberboard siding is an allowed material provided no single building elevation is comprised of more than 50% of such material.

Number of Off-Street Parking Spaces

Due to the nature of senior, age-restricted community, parking generation is limited. Many residents either do not drive or drive seldomly. One of the many services is an on-site van service that is available to take residents to local destinations. Much of the parking demand is generated by visitors and employees.

Parking Garages (VARIANCE REQUESTED)

MF-2 development standards require 50% of parking spaces be provided in garages. The proposed PD for senior, age restricted residential community includes a minimum of 25% of spaces provided in garages. The additional garages will not be needed or demanded by residents as a majority do not drive or will use the on-site transit service. Providing unnecessary ground-floor parking garage disrupts ground floor activities. Additional garages displace ground floor living units and discourages interaction among residents.

(17)

Access

Access to the property would be from two locations on Garden Valley Parkway. Additional sidewalks will be provided along Garden Valley Parkway along the property frontage and connecting to the pedestrian path along the north property line. Additional connection to the pedestrian path will be provided with gated access in the approximate location depicted on the Site Plan.

Landscaping and screening (VARIANCE REQUESTED)

Landscaping and screening will be provided in accordance with the enclosed Landscaping Plan. Perimeter screening is not required along all perimeters. Screening walls would detract from aesthetics and cut the development off from surrounding properties. The proposal includes an ornamental iron fence around the facility along with plant material.

The proposed landscaping program provides a proportional amount of landscape material for the use, density and open space.

Proposed Amenities

The facility will offer the following amenities including trash collection, a private salon, pool, common area, and transit service.

Accessory Buildings

Accessory buildings are not anticipated at this time, as the clubhouse and leasing facilities are anticipated to be incorporated into the larger central structure on the site; however, any accessory structure will comply with the requirements as set forth in the City of Waxahachie Zoning Ordinance.

Signs

All signage will comply with the City of Waxahachie Zoning Ordinance.

Lighting

All lighting will comply with the City of Waxahachie Zoning Ordinance.

Project Phasing or scheduling

The project is anticipated to be constructed in a single phase, with construction expected to commence approximately one year from zoning approval. Construction is expected to take approximately 18 months upon commencement.

Management associations

No management association has been identified for the project at this time. Professional leasing and management of the facility is expected.

(11)

Miscellaneous

Refuse Facilities: A waiver to the minimum distance to a trash facility is also requested. The proposed project will include valet trash pick up for residents as an amenity to reduce resident trips to refuse facilities, and this waiver will allow for greater flexibility in placement to reduce impact on the pedestrian path on the north side of the property. No waiver is requested to the minimum number of facilities needed or required screening.

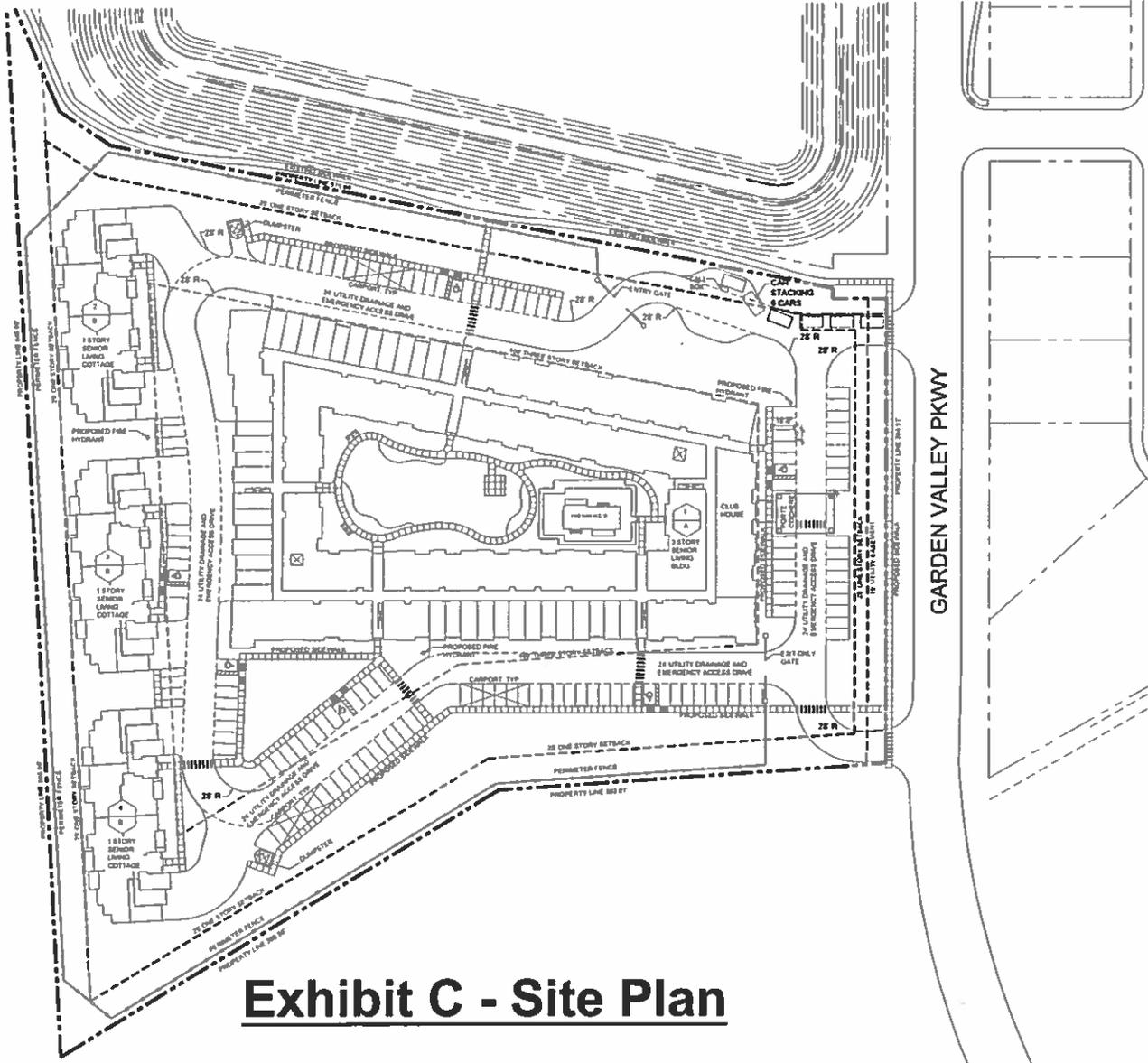


Exhibit C - Site Plan



SITE PLAN
SCALE: 1" = 40'

CASE NUMBER# PD-19-0114:
PLANNED DEVELOPMENT,
PROPOSED LOT 1 BLOCK 1
7.754 ACRES

THE VILLAGE AT GARDEN VALLEY,
SENIOR LIVING FACILITY AGES 55+
THE CITY OF WAXAHACHE,
ELLIS COUNTY, TEXAS.

KALTERRA CAPITAL PARTNERS
3710 RAWLINS STREET
DALLAS, TEXAS 75219
PH. 214.675.2499



SITE INFORMATION
ZONING USE: MF-2
TOTAL UNITS: 175
SITE ACREAGE: 7.754 ACRES

UNITS/ACRE: 22.57
BUILDING TABULATION

TYPE	# BLDGS	UNITS/BLDG	UNIT TOTALS
A	1	157	157
B	3	6	18
TOTAL	4		175

BUILDING SETBACKS
FRONT: ONE STORY 25'-0"
THREE STORY 100'-0"
SIDES: ONE STORY 25'-0"
THREE STORY 100'-0"
REAR: ONE STORY 25'-0"
THREE STORY 100'-0"

PARKING COUNT REQUIRED
PARKING SPACES REQUIRED
1 SPACE PER UNIT = 175

PARKING COUNT PROVIDED
UNCOVERED PARKING = 96
GARAGE - ATTACHED = 54
CARPORT = 18
CLUBHOUSE SPACES = 12

TOTAL PROVIDED SPACES = 180



BUILDING KEY
1 - BUILDING NUMBER
A - BUILDING TYPE



ARCHITECT:
CROSS ARCHITECTS, P.L.L.C.
12355 W. 15TH STREET, SUITE 125
PLANO, TEXAS 75075
P: 972.398.6644
F: 972.312.8666
WWW.CROSSARCHITECTS.COM

WAXAHACHE SENIORS
WAXAHACHE, TEXAS

DATE: 10/04/2019

PROJECT NUMBER: 17044

REVISIONS:

NO. DATE

PREPARED FOR: EXHIBIT

SHEET NUMBER:

A1.0

PROPOSED
SITE PLAN

CDP-17044-0 2019

(17)

RECEIVED
10/1/19



City of Waxahachie, Texas
Notice of Public Hearing
Case Number: PD-19-0114



WP LEGACY LTD
101 VALLEY RIDGE DR
RED OAK, TX 75154

The Waxahachie Planning & Zoning Commission will hold a Public Hearing on Tuesday, October 15, 2019 at 7:00 p.m. and the Waxahachie City Council will hold a Public Hearing on Monday, October 21, 2019 at 7:00 p.m. in the Council Chamber at the Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas to consider the following:

1. Request by Maxwell Fisher, Masterplan., for a Zoning Change from a Multiple Family-2 zoning district to Planned Development-Multiple Family-2, with Concept Plan, located at the SW corner of Garden Valley Parkway at Goodnight Lane (Property ID 275562) - Owner: KALTERRA CAPITAL PARTNERS LLC (PD-19-0114)

You received this notice because your property is within the area of notification as required by law. As an interested party you are welcome to make your views known by attending the hearings. If you cannot attend the hearings, you may express your views by filling in and returning the bottom portion of this notice. Please contact the Planning Department at (469) 309-4290 or via email: Planning@Waxahachie.com for additional information on this request.

Case Number: PD-19-0114
City Reference: 231109

Your response to this notification is optional. If you choose to respond, please return this form by 5:00 P.M. on *Wednesday, October 9, 2019* to ensure inclusion in the Agenda Packet. Forms can be e-mailed to Planning@Waxahachie.com.

SUPPORT OPPOSE

Comments: BEST USE OF PROPERTY

Clyde L. Hargrove
Signature

10-1-19
Date

Clyde L. Hargrove, Pres.
Printed Name and Title

101 VALLEY RIDGE DR RED OAK, TX 75154
Address

*It is a crime to knowingly submit a false zoning reply form. (Texas Penal Code 37.10)
If you are not the addressee at the top of this form, but would like to submit a response, please contact the City for a blank form.*

(17)



RECEIVED
10/1/19

City of Waxahachie, Texas
Notice of Public Hearing
Case Number: PD-19-0114



WP LEGACY LTD
101 VALLEY RIDGE DR
RED OAK, TX 75154

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Case Number: PD-19-0114
City Reference: 242234

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SUPPORT OPPOSE

Comments: HIGHEST & BEST USE

Clyde L. Harbottle
Signature

10-1-19
Date

Clyde L. Harbottle, Pres
Printed Name and Title

101 VALLEY RIDGE DR. RED OAK, TX 75154
Address

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(17)

RECEIVED
10/1/19



City of Waxahachie, Texas
Notice of Public Hearing
Case Number: PD-19-0114



WP LEGACY LTD
101 VALLEY RIDGE DR
RED OAK, TX 75154

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City Reference: 242234

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SUPPORT OPPOSE

Comments: BEST USE OF PROPERTY

Clyde L. Harrold
Signature

10-1-19
Date

CLYDE L. HARROLD PRES
Printed Name and Title

101 VALLEY RIDGE DR. RED OAK, TX 75154
Address

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Case PD-19-0114
 Responses Received Outside Required 200' Notification Area
 Support: 3 Oppose: 0

PropertyID	Owner's Name	Acreage	Legal Description	Owner's Address	Owner's City	Owner's State	Owner's ZIP	Physical Address
231109	WP LEGACY LTD	4.327	5 J B & A ADAMS 4.327 ACRES	101 VALLEY RIDGE DR	RED OAK	TX	75154	FM 813 WAXAHACHIE TX 75165
242234	WP LEGACY LTD	24.252	5 J B & A ADAMS 24.252 ACRES	101 VALLEY RIDGE DR	RED OAK	TX	75154	PARK PLACE BLVD WAXAHACHIE TX 75165
242234	WP LEGACY LTD	24.252	5 J B & A ADAMS 24.252 ACRES	101 VALLEY RIDGE DR	RED OAK	TX	75154	PARK PLACE BLVD WAXAHACHIE TX 75165
232248	ANDERSON GREG D & GLENDA ANDERSON	0.719	5 1 GARDEN VALLEY RANCH PH I 0.719 ACRES	107 VALLEY RANCH CT	WAXAHACHIE	TX	75165	107 VALLEY RANCH CT WAXAHACHIE TX 75165
232247	DELEON ARTURO L & EMILY A	0.3189	LOT 4 BLK 1 GARDEN VALLEY RANCH PH I 0.3189 AC	109 VALLEY RANCH CT	WAXAHACHIE	TX	75165	109 VALLEY RANCH CT WAXAHACHIE TX 75165
232246	MERCER LARRY WAYNE & DIANA LEE	0.1641	3 1 GARDEN VALLEY RANCH PH I 0.1641 ACRES	111 VALLEY RANCH CT	WAXAHACHIE	TX	75165	111 VALLEY RANCH CT WAXAHACHIE TX 75165
232245	OMERO HERRERA & BRENDA I	0.1912	2 1 GARDEN VALLEY RANCH PH I 0.1912 ACRES	113 VALLEY RANCH CT	WAXAHACHIE	TX	75165	113 VALLEY RANCH CT WAXAHACHIE TX 75165
232244	DAVISON JANE A	0.1912	1 1 GARDEN VALLEY RANCH PH I 0.1912 ACRES	115 VALLEY RANCH CT	WAXAHACHIE	TX	75165	115 VALLEY RANCH CT WAXAHACHIE TX 75165
232355	LETT KAYLA N & JAMES R	0.1793	LOT 13 BLK 6 GARDEN VALLEY RANCH PH I 0.1793 AC	117 VALLEY RANCH DR	WAXAHACHIE	TX	75165	117 VALLEY RANCH DR WAXAHACHIE TX 75165
178923	EQUITY TRUST COMPANY CUSTODIAN FBO, KENNETH BOX IRA	4.649	5 J B & A ADAMS 4.649 ACRES	330 HUNTER PASS	WAXAHACHIE	TX	75165	BROADHEAD RD WAXAHACHIE TX 75165
209231	KNIGHTS COLUMBIAN CLUB INC	5	5 J B & A ADAMS LOCKED GATES ACRES	PO BOX 242	WAXAHACHIE	TX	75168	325 BROADHEAD RD WAXAHACHIE TX 75165
215624	WAXAHACHIE COMMUNITY DEVELOPMENT CORP	99.28	LOT 1R BROADHEAD ROAD SPORTS COMPLEX 99.28 AC	PO BOX 757	WAXAHACHIE	TX	75168	501 BROADHEAD RD WAXAHACHIE TX 75165

(5)

(18)



Memorandum

To: Honorable Mayor and City Council

From: Shon Brooks, Director of Planning *SB*

Date: October 10, 2019

Re: TA-19-0118 Subdivision Regulations

Item Description: Consider revising the City of Waxahachie Subdivision Regulations (provided below).

Item Summary: City staff is amending Appendix C, "Subdivision Regulations" of the City of Waxahachie Code of Ordinances, of the City of Waxahachie, Texas.

APPENDIX C - SUBDIVISIONS¹¹

Footnotes:

--- (1) ---

Editor's note— Ord. No. 2084, adopted May 21, 2001, enacted subdivision provisions as herein set out, except the expression of numbers has been made uniform in the same style as used in the Code of Ordinances. Absence of a history note in parentheses following a particular section indicates that the section is derived unchanged from Ord. No. 2084; conversely, a history note in parentheses following a section indicates that such section was amended by the parenthetical legislation.

Cross reference— Building, Ch. 8; electricity, Ch. 11; fire protection and prevention, Ch. 12; garbage and trash, Ch. 14; housing, Ch. 16; mobile homes, Ch. 19; planning, zoning and development, Ch. 24; plumbing and gas, Ch. 25; streets and sidewalks, Ch. 28; utilities, Ch. 33; zoning, App. A; flood damage prevention, App. B.

State Law reference— Municipal regulation of subdivisions and property development, V.T.C.A., Local Government Code § 212.001 et seq.; minimum requirements for subdivisions, 31 Tex. Admin. Code § 364.91.

I. GENERAL - PROVISIONS

Section 1.1: - Authority.

The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City of Waxahachie, Texas, also known and cited as the "Waxahachie 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 Waxahachie, 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 Waxahachie, 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.

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 Waxahachie and its extraterritorial jurisdiction, ~~and superseding~~ which regulations shall supersede the previous Subdivision Ordinance.

~~(Ord. No. 0906, § 29, 4-10-69)~~

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.

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 Waxahachie, Texas are intended to:

- a. 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 Waxahachie;
- b. Guide and assist the developers in the correct procedures to be followed, and to inform them of the standards which shall be required;
- c. Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities and essential areas and services required;
- d. Assist orderly, efficient and coordinated development within the City limits and extraterritorial jurisdiction;
- e. Provide neighborhood conservation and prevent the development of slums and blight;
- f. Harmoniously relate the development of various tracts of land to the existing community, and facilitate the future development of adjoining tracts;
- g. 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;
- h. Provide the best possible design for each tract being subdivided;
- i. 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;
- j. 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;
 - k. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
 - l. Establish adequate and accurate records of land subdivision;
 - m. 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;
 - n. Protect and provide for the public health, safety and general welfare of the community;
 - o. 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;
 - p. 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;
 - q. 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;
 - r. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
 - s. Encourage the development of a stable, prospering economic environment.

Minimum standards for development are contained in the City's Construction & Design (C & D) Manual, related technical standards, the Zoning Ordinance, the Building Code and in this Ordinance. However, the Comprehensive Plan, the Future Land Use Plan, the Thoroughfare 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.

In general, the City's Planning and Zoning Commission is considered the "municipal authority responsible for approving plats" as that term is used in Chapter 212 of the Texas Local Government Code, and is the body that, in most instances, will approve plats in the City of Waxahachie. Petitions for hardships and petitions for relief are reserved for consideration by the City Council and, in those instances, the City Council shall be considered the "municipal

authority responsible for approving plats” as that term is used in Chapter 212 of the Texas Local Government Code.

The City utilizes a single plat process (as contemplated by Subchapter A of Chapter 212 of the Texas Local Government Code) and does not utilize a two-step -preliminary plat and final plat process. Once considered by the Planning and Zoning Commission and, if applicable, the City Council, the plat will still not be eligible to be filed with Ellis County, however, until all requirements of plat approval have been satisfied including, but not necessarily limited to, completion of the required public improvements, or submission of the appropriate surety for public improvements, and that the plat has been embossed with the required certification and signature by the City. An applicant who has received a preliminary plat approval prior to the adoption of the rules and regulations of this Ordinance will be allowed to make an application for a final plat under this Ordinance. No application for a final plat may be made unless a preliminary plat was approved prior to the adoption of this ordinance.

Section 1.3: - Application of Regulations.

No subdivision plat within the City limits or the City's extraterritorial jurisdiction shall be recorded until a ~~final-plat~~ Plat (as required by Texas Local Government Code Section 212.004), 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, or utility tap, or certificate of acceptance for required public improvements shall be issued by the City, except as defined in Section 6.11 Issuance of Building Permits and Certificates of Occupancy of the City's Subdivision Ordinance as amended, for any parcel of land or plat until:

- a. A final-plat plat has been approved and filed in accordance with these regulations; and
- b. All improvements, as required by these regulations, have been constructed and accepted by the City of Waxahachie, or
- c. Assurances for completion of improvements have been provided in accordance with Section 6.

When the final-plat plat is filed at the County, it shall be accompanied by a tax certificate, in accordance with State law.

Section 1.4: - Jurisdiction.

The provisions of this Subdivision Ordinance, as authorized by Subchapters A and B of Chapter 212 of the Texas Local Government Code, including the Construction & Design (C & D) Manual, shall apply to the following forms of land subdivision and development activity within the City's limits or its extraterritorial jurisdiction:

- a. The division of land into two (2) or more tracts, lots, sites or parcels; or
- ~~b. 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 Ellis County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:~~

~~1. Annexation; or~~

~~2. Extension of the City's extraterritorial jurisdiction.~~

eb. The combining of two (2) 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

ec. When a building permit is required for the following uses, if not already platted:

1. Residential single-family and duplex:

(a) New construction.

(b) Moving of a primary structure onto vacant property.

2. Nonresidential and multi-family:

(a) New construction;

(b) Additions (increasing square footage of existing building by more than twenty (20) percent of the gross floor area); or

(c) Moving a primary structure onto vacant property.

ed. For tracts where any public improvements are proposed, if not already platted; or

fe. Whenever a property owner proposes to divide land lying within the City or its extraterritorial jurisdiction into two (2) or more tracts, and claims exemption from Subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots all greater than five (5) acres in size; or in the event that development of any such tract is intended, and where no public improvement, which term shall include an easement, is proposed to be dedicated, he shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050. (See Section 2.75 of this Ordinance for requirements for development plats.)

Section 1.5: - Exemptions.

The provisions of this Subdivision Ordinance shall not apply to:

- a. 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
- b. Development of land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of said tract, lot, site or parcel was filed of record in the Deed Records of Ellis County, Texas on or before April 10, 1969;
- c. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, subdivision or alteration is occurring; or
- d. Existing cemeteries complying with all State and local laws and regulations (does not apply to new cemeteries or expansion of existing cemeteries); or

- e. Divisions of land created by order of a court of competent jurisdiction; or
- f. When a building permit is requested for unplatted or already platted parcels for the following activities:
 1. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage of the original structure.
 2. Additions (i.e., increasing square footage of structure) of not over fifty (50) percent of the existing structure's value, and of not over twenty (20) percent of the gross floor area.
 3. Accessory buildings.
 4. Remodeling or repair (i.e., no expansion of square footage).
 5. Moving a structure off a lot or parcel, or for demolition permits.

Section 1.6: - Applicable Law.

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.

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.

Upon adoption of the Subdivision Ordinance according to law, all other subdivision regulations of the City of Waxahachie previously in effect are hereby superseded, except as provided in Sections 1.6 and 1.7.

Section 1.10: - Amendments.

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.

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. For plats administratively approved, the applicant may appeal the decision of the petition for hardship waiver to the City Council within 10 days of the Planning Director's decision. Such appeals must be filed with the Planning Director.
- b. *Procedures.* A petition for a hardship waiver shall be submitted in writing to the Planning Director City Manager (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 Planning and Zoning Commission. The Planning and Zoning 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 Waiver.

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. For plats administratively approved, the applicant may appeal the decision of the petition for relief waiver to the City Council within 10 days of the Planning Director's decision. Such appeals must be filed with the Planning Director.

b. *Procedures.* A petition for a relief waiver shall be submitted in writing to the Planning Director (or designee) by the petitioner at the time the subdivision application is filed for 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 Planning and Zoning Commission. The Planning and Zoning Commission shall make its recommendation to the City Council and the City Council shall finally act on the petition for a waiver in conjunction with the action taken by each body on the subdivision application.

~~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. If the subdivision application otherwise may be finally 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.~~

cb. Study Required. The applicant or property owner shall provide a study 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 and Zoning Commission and the 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 the maximum amount of any impact fees to be assessed against the development, as well as 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.

de. 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, and impose the requirement or condition; or
2. 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 deny the subdivision application or 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
3. Grant the petition for relief, and waive in whole or in part any dedication or construction requirement that is not roughly proportional; or

4. 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 – Statutory 30-Day Time Frame

- a. Any plat, which is accompanied by either a petition for hardship waiver and/or a petition for relief waiver, that is not approved within the statutory 30-day time frame shall be approved as per Chapter 212 of the Texas Local Government Code as amended. In such cases, only the plat will be approved and not the petition for hardship waiver and/or the petition for relief waiver. Upon approval of the plat, the applicant may make a separate application to the City Council for consideration of the petitions for hardship waiver and/or the petition for relief waiver.

Section 1.1~~43~~: - Enforcement; Violations; Penalties.

- a. *Violations and Penalties.* Any person who violates any of these regulations for lands within the corporate boundaries or extraterritorial jurisdiction 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 1.1~~54~~: - Payment of All Indebtedness Attributable to a Specific Property.

No person who owes delinquent taxes, delinquent paving assessments, or any other delinquent debts or obligations to the City of Waxahachie, 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 Manager (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 1.1~~65~~: - Right to Deny Hearing and/or Plat.

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

Section 1.1~~76~~: - 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 land study or plat shall constitute grounds for denial of the land study/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 1.12.

Section 1.1~~87~~: - Definitions.

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.

- a. *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.
- b. *Administrative Officers.* Any office referred to in this Ordinance by title (i.e., City Manager, City Attorney, City Secretary, Chief Building Official, Public Works and Engineering Director, Director of Utilities, 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 engineering, planning, legal and/or other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.
- c. Administrative Plat. A subdivision resulting in four (4) or fewer lots. Any property to be subdivided using an administrative 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.), - it shall not qualify as an administrative plat.
- d. *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).
- e. *Amended Plat.* A revised plat correcting errors, adding easements, or making minor changes to the original recorded plat final plat. Also termed "amending plat".

- fe.** *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.
- g.** *As Built Drawing.* Drawings submitted upon completion of a project reflecting all changes made during the construction process, and show the exact dimensions, geometry, and location of all elements of the work completed.
- hf.** *Base Flood.* The flood having a one percent chance of being equaled or exceeded in any given year.
- ig.** *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".
- jh.** *Bond.* Any form of a surety bond in an amount and form satisfactory to the City including, but not limited to, maintenance bonds and surety bonds.
- ki.** *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.
- lj.** *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.
- mk.** *City.* The City of Waxahachie, Texas, together with all its governing and operating bodies.
- n.** *City Engineer.* The person holding the position of City Engineer. This person may also be the Public Works and Engineering Director, if the City Engineer position is not filled, and the Public Work and Engineering Director is certified as a Professional Engineer licensed in the State of Texas;
- ol.** *City Manager.* The person holding the position of City Manager, as appointed by the City Council and according to the City Charter.
- pm.** *Commission.* The Planning and Zoning Commission of the City.
- qn.** *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, streets, parks, water/wastewater facilities, and other public and private developments and improvements.
- re.** *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 Manager (or designee), Planning and Zoning Commission, Public Works and Engineering Director, or others who are consulted prior to the preparation of the preliminary plat.

- sp.** *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.
- sq.** *Construction and Design Manual (C & D).* Those standards and specifications established by the City to ensure proper installation of the improvements required by this Ordinance. The C & D Manual shall be collectively the following documents, and shall be available for review or purchase at the City of Waxahachie during normal business hours:
1. Standard Specifications for Public Works Construction, Including Standard Drawings, Latest Edition, published by the North Central Texas Council of Governments
 2. City of Waxahachie Design Manual for Thoroughfare Standards.
 3. City of Waxahachie Design Manual for Paving Standards.
 4. City of Waxahachie Design Manual for the Design of Storm Drainage Systems.
 5. City of Waxahachie Design Manual for Water and Sanitary Sewer Lines and Utilities.
- sf.** *Contiguous.* Lots are contiguous when at least one boundary line of one lot touches a boundary line, or lines, of another lot.
- sg.** *Council or City Council.* The duly elected governing body of the City of Waxahachie, Texas.
- sh.** *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.
- si.** *Dead-End Street.* A street, other than a cul-de-sac, with only one outlet.
- sj.** *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.
- sk.** *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.
- sl.** *Escrow.* A deposit of cash with a bank, title company or other institution established by an applicant to which the City has final approval authority for the withdrawal of funds, the City in accordance with City policies.

ccy. Filing Date. The filing date is the date when the application for a plat or plan is determined to be administratively complete. An application is considered administratively complete upon the occurrence of all of the following: (1) When all necessary forms, supplemental documents, and copies are submitted and accepted by staff; (2) when staff has determined that the application for a plat meet all requirements of applicable City ordinances so that it may be reviewed by the Planning and Zoning Commission, or City Council if applicable; (3) all fees associated with the application have been paid and the issuance of a fee receipt by staff has occurred. To align plat or plan applications with planned Planning and Zoning Commission and/or City Council meetings, the City reserves the right to limit the days or times for which an applicant may submit a plat application when all necessary forms, fees, and copies are submitted and accepted for filing by action of issuance of a fee receipt by the City.

~~z. 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, 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 Ellis County, Texas. An amended plat is also a final plat.~~

ddaa. 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.

eebb. 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).

ff. Land Study. Any study required of a project which requires additional analysis and input which would include a Traffic Impact Analysis, Flood Study, or other related study required for the development of land.

ggee. 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.

hh. Maintenance Bond. A bond purchased by a contractor that protects the City once the infrastructure has been accepted from defects and faults in materials, workmanship, and design for a specified period of time.

~~dd. 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.~~

~~ee. *Minor Plat.* A subdivision resulting in four (4) or fewer lots, provided that the plat is for conveyance purposes only (i.e., sale of the property with no development/construction proposed); 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.~~

iiff. *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.

iiiss. *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.

kkhh. *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 (see Section 3.1), as 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 or, for an alley segment, to the right-of-way lines (i.e., alley entrance points) of the streets from which the alley is provided access, including turnouts).

llii. *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.

mmjj. *Perimeter Street.* Any existing or planned street which abuts the subdivision or addition to be platted.

nnkk. *Person.* Any individual, association, firm, corporation, governmental agency, or political subdivision.

oohh. *Planning and Zoning Commission.* The Planning and Zoning Commission of the City of Waxahachie, Texas. Same as "Commission".

pp. Plat. The act of subdividing or combining one or more lots into a legal lot of record, which meet all of the requirements outlined within the City's Subdivision Ordinance, as amended. Types of plats include, but are not limited to: plats, replats, development plats, amending plats, administrative plats, and plat vacations and are individually defined within Section 1.17 Definitions of this Ordinance, as amended. The Plat shall be 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, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references.

~~mm. 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 upon a topographic map and showing in plan view all existing and proposed drainage features/facilities, public utilities, street layouts, direction of curb flow and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

qqq. *Private Street.* A private vehicular access way that is shared by and that serves two (2) or more lots, which is not dedicated to the public, and which is not publicly maintained. Subdivisions having private streets may be established only under the terms set forth in Section 3.1 of the Subdivision Ordinance, and pursuant to any other guidelines for private street developments as may be adopted for use by the City (either as part of this Ordinance or as separate guidelines/policies). The term "private street" shall be inclusive of alleys where they are provided.

rrr. *Public Works and Engineering Director.* "Public Works and Engineering Director" is a qualified professional, or firm of registered professional consulting engineers, that has been specifically employed by the City to assist in construction and or engineering-related matters.

sspp. *Replating (or To Replat).* The resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

ttt. *Right-of-Way.* A parcel of land occupied, or intended to be occupied, by a street or alley. This is the determined to be necessary for the installation of a roadway. Rights of ways have various widths which are determined by the necessary road section required to serve a development. 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.

uuu. *Street.* A right-of-way (public or private), however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

1. 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.
2. Collector streets ("feeder" streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
3. Local residential streets (minor thoroughfares or streets, etc.) are primarily for providing direct vehicular access to abutting residential property.
4. Private streets (owned and maintained by a property/homeowners association, and not dedicated to the public).

yyss. *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.

ww#. *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.

xx##. *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.

yy##. *Subdivision (also Addition).* A division, ~~or~~ re-division, or combination 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.

zz##. *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.

Aa1. *Surety Bond.* A three-party agreement binding the bond holder, the City, and a surety company that sells the bond. If the principal fails to perform the underwritten duties and requirements, the bond will cover the resulting damages or losses.

Aa2##. *Surveyor.* A licensed land surveyor or a registered public surveyor, as authorized by State statutes to practice the profession of surveying.

Aa3##. *Temporary Improvements.* Improvements built and maintained by the property owner or subdivider that are needed to remedy a circumstance that is temporary in nature (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).

Aa4. Vacating Plat. A plat that returns platted property to the condition of the property prior to the filing of the latest recorded plat.

~~(Ord. No. 2229, § 2(A), 4-5-04)~~

~~Section 1.198: Dormant Plats.~~

~~a. Definitions. For purposes of this section only, the following terms apply:~~

- ~~(1) "Plat" "Final plat" means the final stage of approval of a subdivision or addition required by Prior Subdivision Regulations as a condition of recording a division of land in the deed records of Ellis County and that was approved or filed for approval pursuant to such Prior Subdivision Regulations.~~
- ~~(2) "Prior Plat" means a land study, concept plan, sketch plat, preliminary plat or other similar representation showing a division of land into lots or tracts approved or filed for approval pursuant to Prior Subdivision Regulations, other than a Plat final plat.~~
- ~~(3) "Prior Subdivision Regulations" means any subdivision regulation or rule incorporated within a subdivision ordinance of the City of Waxahachie that was in effect prior to the adoption Ordinance No. 2084, as amended.~~

~~b. Expiration of Dormant Plat. Any prior plat or portion thereof, or any final plat or portion thereof that has not been recorded, which prior plat or final plat was approved or filed for approval before, but that was not subject to an expiration date under Prior Subdivision Regulations on, May 11, 2000, shall expire at 5:00 p.m. on August 31, 2005.~~

~~c. Appeal. The owner of the land subject to the prior plat or plat final plat that expires under subsection (a) may petition the City Council to reinstate such prior plat or plat final plat by filing a vested rights petition within six (6) months of the expiration. The petition shall clearly state the grounds for reinstatement, and shall be accompanied by documentation of one of the following:~~

- ~~(1) As of May 11, 2000, one of the following events had occurred:~~
 - ~~(A) In the case of an approved prior plat:
 - ~~(i) A final plat application for all or part of the land subject to the approved prior plat was approved, or was filed and was subsequently approved, or an application for a final plat was submitted for all or part of the land subject to the approved prior plat, but such application was rejected on grounds of incompleteness;~~
 - ~~(ii) Costs for development of the land subject to the prior plat, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five (5) percent of the most recent appraised market value of the land subject to the prior plat;~~~~

~~(iii) Fiscal security was posted to ensure performance of an obligation required for development of all or a part of the land subject to the approved prior plat; or~~

~~(B) In the case of an approved, unrecorded final plat:~~

~~(i) Costs for development of the land subject to the final plat, including but not limited to costs associated with roadway, utility and other infrastructure facilities designed to serve the land in whole or in part, but exclusive of land acquisition costs, were incurred in the aggregate amount of five (5) percent of the most recent appraised market value of the land subject to such final plat;~~

~~(ii) Fiscal security was posted after approval of the final plat to ensure performance of an obligation required for all or a part of the land subject to the approved final plat; or~~

~~(iii) Utility connection fees or impact fees for all or part of the land subject to the approved final plat were paid.~~

~~(2) For an approved prior plat, one of the following events occurred after May 11, 2000, but before the expiration date specified in subsection (b):~~

~~(A) A final plat was approved for all or part of the land subject to the approved prior plat and remained in effect for such land on August 31, 2005; or~~

~~(B) A complete application for approval of all or part of the land subject to the approved prior plat was pending for decision on August 31, 2005.~~

~~d. Council Action. The City Council may take one of the following actions:~~

~~(1) Reinstate the expired prior or final plat subject to such expiration dates as may be authorized by law, if it finds that the petitioner has met any one of the criteria listed in subsection (c)(1).~~

~~(2) Reinstate the expired prior plat for all or part of the land subject thereto, if it finds that the petitioner has met any one of the criteria listed in subsection (c)(2), subject to such expiration dates or other conditions that assure that the remaining land that is not subject to an approved or pending final plat application will be developed in a timely fashion. In granting relief under this provision, the Council may require that development of such remaining land is subject to standards enacted after initial approval of the expired prior plat.~~

~~(3) Deny the petition, if it finds that the petitioner has failed to meet any of the criteria in subsection (c).~~

~~(4) Reinstate the prior plat for only that part of the land subject to a pending final plat application, if it finds that the petitioner has met the criteria in subsection (c)(2)(B) and the pending plat application subsequently was approved, and deny the petition for the remaining land within the expired prior plat.~~

~~(Ord. No. 2329, § 1, 8-15-05)~~

II. - PROCEDURES

Section 2.1: - Pre-Application Procedures.

- a. *Complete Application Determination.* Every application for approval of a Plat, Replat, or other form of plat preliminary plat or final plat shall be subject to a determination of completeness by the planning director. No application shall be accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of these Subdivision Regulations. The director from time to time may identify additional requirements for a complete application that are not contained within but are consistent with the application contents and standards set forth in the Subdivision Regulations. The director also may promulgate a fee for review of the application for completeness. The statutory 30-day time frame for plat approvals, as established by Chapter 212 of the Texas Local Government Code as amended, shall not begin until the application has been determined to be complete by City staff.
- b. *Incompleteness as Grounds for Revocation of Acceptance.* ~~Denial.~~ The processing of an application by any City official or employee prior to the time the application is determined to be complete shall not be binding on the City as the official acceptance of the application for filing, and the incompleteness of the application shall be grounds for ~~denial or~~ revocation of the application. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of these Subdivision Regulations.
- c. *Pre-application Conference.* A property owner may request a pre-application conference with the director for purposes of identifying requirements that are applicable to a proposed plat. The request shall be made in writing on a form prepared by the director and shall state that any proposed development concept discussed at the pre-application conference is not intended as a plan of development or application for plat approval.
- d. *Time for Making Determination.* Following submission of a plan of development or plat application, the ~~p~~Planning ~~d~~Director shall make a determination in writing whether the plan or application constitutes a complete application for a Plat, Replat, or other form of plat preliminary plat or a final plat not later than the tenth business day after the date the application is submitted. The determination shall specify the documents or other information needed to complete the application and shall state the date the application will expire if the documents or other information is not provided.
- e. ~~*When Deemed Complete.* An application for approval of a preliminary plat that is filed on or after April 28, 2005, or any subsequent preliminary plat or final plat application filed after approval of such preliminary plat, shall be deemed complete on the 11th business day after the application has been received, if the applicant has not otherwise been notified that the application is incomplete.~~
- ef. *Time for Completing Application.* If an application is not completed on or before the 45th day after the application is submitted to the ~~p~~Planning ~~d~~Director for processing the application in accordance with his or her written notification, the application will be deemed to have expired and it will be returned to the applicant together with any accompanying documents. Thereafter, a new application for approval of the Record Plat preliminary plat or final plat must be submitted. The City may retain any fee paid for reviewing the application for completeness.

~~fg.~~ *Sequence of Applications.* Notwithstanding any other provision of this Subdivision Ordinance to the contrary, an application for a Plat, Replat, or other form of plat ~~preliminary plat or final plat~~ shall not be considered complete unless accompanied by a copy of the zoning ordinance or other certification verifying that the proposed use, lots sizes and lot dimensions for which the application is submitted is authorized by the zoning district in which the property is located.

~~gh.~~ *Vested Rights.* No vested rights accrue solely from the filing of an application that has expired pursuant to this section, or from the filing of a complete application that is subsequently denied, or from the submission of an incomplete application.

~~i.~~ *Official Filing Date.* ~~The time period established by state law or these subdivision regulations for processing or deciding an application shall commence on the date that a complete application has been accepted for filing, which date shall be deemed the official filing date.~~

~~(Ord. No. 2329, § 2, 8-15-05)~~

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 ~~the submission of an application for~~ approval of any plat. A zoning application may be considered on the same date as a companion plat application at a Planning and Zoning Commission and/or City Council meeting if applicable. However, the zoning application must be considered first, and if the zoning request is denied, the plat cannot be considered if it does not have the proper zoning required for its approval. 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.

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.

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 licensed civil engineer or 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 2.11 of this Ordinance. Lots may be conveyed or sold only when the plat has been approved by the City Council and the plat has been filed at Ellis County.~~

~~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. The procedure for approval of a major plat typically requires three (3) steps: land study, preliminary plat and final plat (see Sections 2.3 through 2.6 for applicability and requirements for each). A concept plan that includes sufficient information to provide for the proper coordination of the development may be required for non-residential property. Major plat approval shall be in accordance with Sections 2.5 and 2.6. Upon completion of the required public improvements (or upon submission of the appropriate surety for public improvements), the property owner may submit the final plat for approval. All major subdivision plats must be approved by the Planning and Zoning Commission and City Council, pursuant to Section 2.4 through Section 2.8. Lots may be conveyed or sold only when the plat has been approved by the City Council and the plat has been filed at Ellis County.~~

be. *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 Planning Director ~~City Manager~~, 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.

cd. *Official Submission Filing Date and Completeness of Application For All Types of Plats; Consideration Deadlines.*

~~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 Manager (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 Manager (or designee) determines that the application is complete and a fee receipt is issued by the City. Failure by the City Manager (or designee) to make a determination of incompleteness within ten (10) calendar days 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 11th calendar day following initial receipt of the application by the City.~~

1. 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.
2. The statutory 30-day time frame for plat approvals, established by Chapter 212 of the Texas Local Government Code, shall commence on the Filing Date.
3. Pursuant to Section 212.009(b-2) of the Texas Local Government Code, as amended, upon application in writing by the applicant, the Planning and Zoning Commission or, if applicable, the City Council may extend the statutory 30-day time frame for plat approvals for a period not to exceed 30 additional days.

~~de. Action by Planning and Zoning Commission and/or, if applicable, 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. The Planning and Zoning Commission shall act on the plat application within thirty (30) days of the official submission date. The City Council shall act upon the plat application within thirty (30) days following the Commission's action. All plats for a major subdivision shall be approved by the Planning and Zoning Commission and the City Council.~~

1. Review the Plat Application, the findings of the Planning Director and any other information available. From all such information, the Planning and Zoning Commission shall determine whether the plat conforms to these Subdivision Regulations.

2. Act within thirty (30) calendar days following the Filing Date, unless the Applicant has submitted a Waiver of Right to 30 Day Action, as outlined in 3.03B and Section 212.009(b-2) of the Texas Local Government Code, as amended. If a timely decision is not rendered by the Planning and Zoning Commission, the plat, as submitted, shall be deemed approved by the Planning and Zoning Commission and/or the City Council. For any plat which the Planning and Zoning Commission is the municipal authority for approving plats, if a quorum of the Commission is not available the City Council will automatically become the municipal authority responsible for approving such plats.

3. Take one of the following actions:

a. Approve the Plat;

b. Approve the Plat with conditions; or

c. Disapprove the Plat

4. In the event the Planning and Zoning Commission conditionally approves or disapproves a plat, the Planning and Zoning Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with Section 212.0091 of the Texas Local Government Code, as amended. After the conditional approval or disapproval of a plat, the applicant may submit to the Commission a written response that satisfies each condition for the conditional approval or remedies each reason provided for the disapproval, in accordance with Section 212.0093 of the Texas Local Government Code, as amended. In the event the Planning and Zoning Commission receives such a response from the applicant, the Planning and Zoning Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the 15th day after the date the response was submitted, in accordance with Section 212.0095 of the Texas Local Government Code, as amended. Any comments indicated in staff reports associated with plat applications identifying or reiterating the requirements of a plat, as required within this ordinance, will not be considered as a condition, but rather as a requirement for platting. Such comments will not be deemed to trigger a conditional approval and are not subject to a written response from an applicant. Such comments include, but are not limited to, the following: (1) the requirement to install all necessary and required public infrastructure, or put funds in escrow, or obtain a surety bond in the amount equivalent to the required infrastructure improvements before the recording of a plat; (2) commissioning a traffic impact analysis as required by this ordinance and installing or meeting any and all requirements of such an analysis before the recording of a plat; and (3) commissioning a drainage analysis as required by this ordinance and installing or meeting any and all requirements of such an analysis before the recording of a plat.

~~f. *Simultaneous Submission of Plats.* In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in Section 2.4(c), the City Manager (or designee) shall schedule both plat applications for action by the Planning and Zoning Commission within thirty (30) days of the official submission date, unless the applicant has executed a waiver of the thirty day review period (in writing) for one or both plats. If the preliminary plat has not received approval prior to consideration of the final plat by the Commission, then the Commission shall deny the final plat application.~~

ee. *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 ~~Planning Director~~ City Manager, 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 Manager~~ Planning Director (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 Manager~~ Planning Director (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.

f. Planning and Zoning Commission Authority Regarding Fee Waivers or Reductions. The Planning and Zoning Commission shall have no authority to provide fee waivers, or reductions in fees, as part of the plat approval process. An applicant for plat approval who desires a fee waiver, or reduction in fees, as part of the plat approval process must, after obtaining plat approval by the Planning and Zoning Commission, request such fee waiver, or reduction in fees, from the City Council via a separate application. Request for fee waivers may only be requested after a plat has been approved or approved with conditions.

(Ord. _____ No. _____ 2229, _____ § _____ 2(B), _____ 4-5-04)

Section 2.3: - Procedures and Submission Requirements for ~~Preliminary~~ Plat Approval.

- a. The plat application shall contain information demonstrating that all standards of approval have been met including, but not necessarily limited to, the following:
 1. The plat substantially conforms 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 and Open Space Plan, and Thoroughfare Plan, as applicable.
 2. Any application to plat a previously unplatted parcel must also include a title search to identify any easements on the property recorded through a separate instrument, so they may be incorporated into the initial plat.
 3. The layouts for required public improvements and City utilities are in conformance with City codes and policies.
 4. The plat conforms to applicable zoning, subdivision, and other development regulations.
 4. Notwithstanding any other provision of this Subdivision Ordinance, no plat containing more than fifty (50) acres of contiguous land or land in unified ownership may be approved or conditionally approved, where the proposed development

requires the extension of offsite city water or wastewater mains, which facilities have not been included in a capital improvements plan and funded, or for which funding has been provided in an approved development agreement, at the time a complete application for a plat is filed. This requirement shall not be circumvented by filing of separate or sequential applications for plats.

- a. ~~1. The subdivider shall prepare a preliminary plat and preliminary construction information of the subdivision and other supplementary materials, as specified. The preliminary plat shall be submitted to the City of Waxahachie 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-eight (28) calendar days (but no more than thirty (30) calendar days, unless the applicant waives the thirty-day review time in writing) prior to the Planning and Zoning Commission meeting at which it is to be considered. The application shall include preliminary construction information, including any drawings and 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 application shall be signed by the record owner of the property if the owner is not the same as the applicant.~~
- ~~2. At the time the developer files a preliminary plat application with the City Manager (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.~~
- ~~3. The application shall contain information demonstrating that all standards of approval in section 2.4(g) have been met.~~
- ~~4. The preliminary plat shall be prepared by a registered/certified engineer, land planner or surveyor.~~
- b. ~~Copies of prints of the proposed subdivision drawn on sheets at a size of twenty-four (24) inches by thirty-six (36) inches, and drawn to a scale of one hundred (100) feet or fifty (50) feet to the inch, 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). In cases of large developments which would exceed the dimensions of the sheet of one hundred foot scale, preliminary plats may be on multiple sheets or may be two hundred (200) feet to the inch or another known engineering scale, as approved by the City Manager (or designee).~~

~~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, if not preceded by a land study 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.~~

- e. ~~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, as per Section 6), 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 day review period, then only the preliminary plat shall be considered for approval and the final plat shall be denied unless the thirty day review requirement is waived in writing by the applicant.~~

- ~~d. Following review of the preliminary plat and other materials submitted in conformity to 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 any, and the preliminary plat shall be placed on the next possible City Council agenda for consideration. The City Council shall take action within thirty (30) days following the Planning and Zoning Commission's action.~~

~~The Planning and Zoning Commission (and ultimately City Council) shall only approve the actual plat drawing (i.e., the sheet(s) showing the actual plat for the subdivision, which will eventually be approved by the City and then 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 twenty (120) calendar days following approval of the preliminary plat, and shall be reviewed and approved by the Public Works Director and/or other City staff, as deemed appropriate.~~

- ~~e. Approval of a preliminary plat by the Planning and Zoning Commission and by City Council 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 ten (10) 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 or by the City Council unless the following standards have been met:~~
- ~~1. The plat substantially conforms 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 and Open Space Plan, and Thoroughfare Plan, 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, subdivision and other development regulations.~~
- ~~4.—Notwithstanding any other provision of this Subdivision Ordinance, no preliminary plat containing more than fifty (50) acres of contiguous land or land in unified ownership may be approved or conditionally approved, where the proposed development requires the extension of offsite city water or wastewater mains, which facilities have not been included in a capital improvements plan and funded, or for which funding has been provided in an approved development agreement, at the time a complete application for a preliminary plat is filed. This requirement shall not be circumvented by the filing of separate or sequential applications for preliminary plats.~~
- ~~h.—No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the engineering/construction plans by the Public Works Director. 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 Public Works Director. No excavation, including grading and clearing of vegetation, shall occur prior to approval of the preliminary plat and the construction (i.e., engineering) plans.~~
- ~~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, 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;~~
 - ~~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. Contours with intervals of five (5) feet or less shown for the area (unless, due to some unique aspect of the subject property, the Director of Public Works requires a two-foot contour interval) with all elevations on the contour map referenced to sea level datum;~~
 - ~~11. Areas contributing drainage to the proposed subdivision shall be shown in the construction (i.e., engineering) plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;~~
 - ~~12. 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;~~
 - ~~13. 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;~~
 - ~~14. 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 or for such phases as the Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;~~
 - ~~15. All preliminary plats shall be submitted in a legible format on a good grade blue line or black line paper;~~
 - ~~16. Proposed or existing zoning of the subject property and all adjacent properties;~~
 - ~~17. 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;~~

City Approval of Preliminary Plat

Approved for preparation of the final plat:	
_____	_____
Approved by the Planning and Zoning Commission	Date
_____	_____
Approved by the City Council	Date
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 Waxahachie.~~

~~_____~~

~~Registered Professional Land Surveyor~~

~~j. Engineering/Construction Plans. After preliminary plat application, the developer shall submit the required copies of the complete engineering construction 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 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 Waxahachie. The City Manager (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 Manager 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.~~

~~After approval of the preliminary plat, construction plans and specifications by the City of Waxahachie, 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 supervise the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with these regulations.~~

~~Construction plans shall be prepared by or under the supervision of a professional engineer or architect registered in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the Construction & Design (C & D) 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 shall be approved by the City Manager (or designee) when such plans meet all of the requirements of this Ordinance and the C & D Manual.~~

~~Engineering and construction plans shall be in conformance with the Construction & Design (C & D) 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 forty (40) or fifty (50) feet horizontally and one inch equals four (4), five (5), or ten (10) feet vertically shall be submitted to the Public Works Director (or designee) along with the preliminary plat of the subdivision. The number of copies as specified by the Public Works Director shall be submitted to the Public Works office.~~

~~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. Unless extended under subsection (2), an approved preliminary plat application shall expire and shall thereafter be deemed null and void if a final plat application for all the land subject to the preliminary plat has not been approved within two (2) years from the date of the Council's approval of the preliminary plat. Subsequent expiration of the final plat shall also result in expiration of the preliminary plat for the same land. If the subdivision is to be developed in phases, and a phasing schedule has been approved with the preliminary plat, the final plat for the first phase must be approved within two (2) years from the date of approval of the preliminary plat by the City Council or in accordance with the phasing schedule. If the subdivider fails to receive approval of a final plat for any phase of the development within the prescribed period, the preliminary plat shall expire for that phase and for all other phases for which a final plat has not been approved or no longer remains in effect. Upon expiration, or upon denial of a timely submitted request for extension of plat approval, a new plat application shall be submitted, subject to requirements in effect at the time the application is filed with the City.~~

~~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 City Council, and an extension may be granted by the City Council at such public meeting.~~

~~In determining whether to grant such a request, the City Council 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 and City Council shall extend the preliminary plat, or deny the request, in which instance the property owner must submit a new application for approval.~~

~~The Commission and City Council 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 Commission and City Council 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.~~

~~The City Council 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 and City Council do 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.~~

~~n. Remainder Tracts:~~

- ~~1. A remainder tract is that portion of a larger parcel that is not included within the boundaries of a preliminary plat. Remainder tracts shall not be considered lots or tracts of a proposed subdivision. Approval of a preliminary plat shall not constitute approval of development on a remainder tract.~~
- ~~2. Information accompanying a preliminary plat application for remainder tracts shall be deemed to be an aid to the commission or the council in taking action on the plat application and may be used to determine whether development of the land subject to the plat will be adequately served by public facilities and services and is otherwise in compliance with this Subdivision Ordinance, taking into account the future development of the property as a whole. Information concerning remainder tracts may be considered in formulating conditions to approval of the preliminary plat application.~~

~~(Ord. No. 2229, § 2(C) (F), 4-5-04; Ord. No. 2329, §§ 3, 4, 8-15-05)~~

~~Section 2.4: Procedures and Submission Requirements for Final Plat Approval.~~

~~ba.~~ The ~~final plat, prior to filing with Ellis County, 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 and ~~if applicable, the City Council upon the preliminary plat.~~ The ~~final~~ plat shall not be ~~approved certified and signed for filing with the County~~ by the City until all utilities, infrastructure, and other required improvements have been constructed according to the engineering/construction plans, as approved by the Public Works ~~and Engineering~~ Director, 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 2.4 [c] for exception).~~ At the time the developer files a ~~final~~ plat application with the ~~Planning Director City Manager~~ (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.

~~cb.~~ The required number of copies of the proposed ~~final~~ plat shall be submitted ~~with the plat application.~~ ~~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 plat may be required if revisions or corrections are necessary. ~~A plat, if not preceded by a land study 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. At least twenty-eight (28) calendar days (but no more than thirty (30) 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 ~~Planning Director City Manager~~ (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 ~~Planning Director City Manager~~ (or designee). ~~along with~~ ~~While not required, the applicant may submit~~ a written request for a 30-day extension of the review period (thereby ~~waiving extending~~ 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~~ ~~may~~ 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 ~~Planning and Zoning~~ Commission's ~~and/or City Council's~~ agenda. The ~~final~~ plat application will thereupon be returned to the applicant with the reasons stated as to why the plat is incomplete.

~~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). The City Council shall take action within thirty (30) days of the Planning and Zoning Commission's action. After the final plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the thirty-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 City Council, attested by the Mayor or Mayor Pro Tem~~

~~d. Following review of the plat and other materials submitted in conformity to 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 and/or City Council shall act upon the plat as it was submitted, or modified, and shall either (1) approve the plat; (2) approve the plat with conditions; or (3) disapprove the plat. In the event the Planning and Zoning Commission and/or City Council conditionally approves or disapproves a plat, the Planning and Zoning Commission or City Council shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval, in accordance with Section 212.0091 of the Texas Local Government Code, as amended. After the conditional approval or disapproval plat, the applicant may submit to the Planning and Zoning Commission or City Council a written response that satisfies each condition for the conditional approval or remedies each reason provided for the disapproval, in accordance with Section 212.0093 of the Texas Local Government Code, as amended. In the event the Planning and Zoning or City Council receives such a response from the applicant, the Planning and Zoning Commission or City Council shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the 15th day after the date the response was submitted, in accordance with Section 212.0095 of the Texas Local Government Code, as amended.~~

~~e. The Planning and Zoning Commission and, if applicable, the City Council, shall only approve the actual plat drawing (i.e. the sheet(s) showing the actual plat for the subdivision, which will eventually be approved by the City and then filed at the County, 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 twenty (120) calendar days following the approval of the plat and shall be reviewed and approved by the Public Works and Engineering Director and/or other City staff, as deemed appropriate. If the required construction plans are not submitted within one hundred twenty (120) calendar days year following approval of the plat, the plat shall be deemed withdrawn by the applicant and shall no longer be considered an approved plat.~~

~~f. 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. 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 Planning Director City Manager (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 Waxahachie prior to filing, and a copy of letters from each applicable utility company shall be submitted to the Planning Director City Manager (or designee) stating that the plat contains the proper easements. Blackline copies Mylars, reductions and blueline copies as required by the County Clerk of Ellis County, in addition to mylar copies and a computer disk containing the digital plat file(s) and DWG file (s)~~

required by the City, shall be returned to the ~~Planning~~City-Building 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 City Council. The City Secretary shall file the ~~final~~ plat within thirty (30) working days at the office of the County Clerk of Ellis County after City staff has certified that all plat conditions have been satisfied.

g. On those platting matters that go before City Council, the City Council may affirm, modify, or reverse (i.e. override) the decisions of the Planning and Zoning Commission, or it may, where appropriate, remand the plat back to the Commission for further proceedings consistent with the City Council's direction.

h.e. The ~~final~~ plat (and any replats) shall be prepared by a registered professional land surveyor (RPLS).

i.d. 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 Waxahachie 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 set of "As-Built" or "Record Drawing" mylars, and one digital copy of "As-Built" or "Record Drawings" on a disc shall be submitted with a letter stating the contractor's compliance with these regulations. After such letter is received, the ~~Planning~~Public Works and Engineering Director ~~City Manager~~ (or designee) shall receive and accept for the City of Waxahachie the title, use and maintenance of the improvements according to Section 6.7. The ~~final~~ plat shall not be approved certified and signed by approval and filing with the County prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the City.

(Ord. ~~_____~~ No. ~~_____~~ 2329, ~~_____~~ § ~~_____~~ 5, ~~_____~~ 8-15-05)

Section 2.45: - ~~Final~~ Plats (Information and Format Requirements).

a. a- All final plats shall be submitted on sheets no larger than twenty four (24) inches by thirty six (36) inches, and to a scale of not less than one hundred (100) feet to the inch or larger. Ellis County requires that no plat be larger than eighteen (18) by twenty four (24) inches for filing. 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 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. 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 and/or Public Works and Engineering Director. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has

reviewed the plat and stating any requirements (including easements) they may have. No excavation, including grading and clearing of vegetation, shall occur prior to approval of the plat and the construction (i.e. engineering) plans unless an early grading release letter is issued. To obtain an early grading release letter, the applicant must provide an erosion control plan and, for lots greater than 1 acre in size, a storm water pollution prevention plan. Approval of an early grading release letter is discretionary and such approval, if given, is not to be considered an indication that construction plans will be approved.

c. The required copies or prints (as determined by the City) of the proposed plat and construction (i.e. engineering) plans shall show the following:

1. A vicinity or location map that delineates the location of the proposed 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 width 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 plat is approved);
5. 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.
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 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. Contours with intervals of two (2) feet or less shown for the area (unless, due to some unique aspect of the subject property, the Director of Public Works and Engineering requires not require a two-foot contour interval) with all elevations on the contour map referenced to sea level datum;
11. Areas contributing drainage to the proposed subdivision shall be shown in the construction (i.e. engineering) plan; locations proposed for drainage discharge from the site shall be shown by directional arrows;
12. 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;
13. 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; the name and contact number of the current CCN water and/or sewer purveyor;
14. Where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the 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, the name and contact number of the current CCN water and/or sewer purveyor; 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 or for such phases as the Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
15. All plats shall be submitted in legible format on a good grade black line paper;
16. Proposed or existing zoning of the subject property and all adjacent properties;
- 17b. 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.
- 18e. 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.

19d. 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.

20e. The names and accurate location and right-of-way widths of all adjacent streets.

21f. 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.

22g. The description and location of all survey monuments, with corresponding GPS coordinates, placed in the addition or subdivision shall be shown (see Section 5.1 for specifications).

23h. The ~~final~~ plat shall show a title block in the lower right corner of the page, the words "~~Final~~ Plat," the names of the addition or subdivision, the name of the owner and engineer or surveyor, the sale and location of the subdivision, north point and reference to original land grant or survey and abstract number. The ~~final plat~~ Plat shall provide a place for the County Clerk of Ellis 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 two (2) inches by two (2) inches in size.

24i. 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.

25j. Certificates shall be on the final record subdivision plat and shall contain a minimum of the following information:

i1. A statement that the subdivided area is legally owned by the applicant.

ii2. 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.

iii3. 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, and all other rights of way 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.

iv4. The registered public surveyor's certificate, with a place for signatures.

v5. A place for plat approval signature of the Planning and Zoning Commission Chairperson ~~and the Mayor or Mayor Pro Tem (which shall indicate that all plat conditions have been fulfilled) of the City Council~~, a place for the City Secretary to attest such signature, and the approval dates by the Planning and Zoning Commission

and, if applicable, a place for plat approval signature of the Mayor and the approval date of the and City Council.

vi6. Following are examples of the information required on the ~~final plat~~ Plat which meet the above requirements:

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

STATE OF TEXAS	§
COUNTY OF ELLIS	§

WHEREAS, John Doe and Jane Doe are the Owners of a tract of land situated in the WXYZ Survey, Abstract No. 000, Ellis 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 Waxahachie, 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 Waxahachie. 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 Waxahachie's use thereof. The City of Waxahachie 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 Waxahachie 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 Waxahachie, Texas

WITNESS, my hand, this the _____ day of _____, 20_____.

BY:

Authorized Signature of Owner

Printed Name and Title

STATE OF TEXAS	§
COUNTY OF ELLIS	§

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 _____, 2000.

Notary Public in and for the State of Texas

My Commission Expires On:

(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 Waxahachie.

(seal)

Registered Professional Land Surveyor

(c) *Approval Block (required):*

APPROVED BY: Planning and Zoning Commission City of Waxahachie

By:	_____	_____
	Chairperson	Date
	_____	_____
	<u>Attest</u>	<u>Date</u>

IF APPLICABLE, APPROVED BY: City Council

City of Waxahachie

By:	_____	_____
	Mayor	

_____	_____	_____
	Attest	Date

- _____
- (d) *Visibility, Access and Maintenance Easements (if applicable)*: 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) *Fire Lanes (if applicable)*: That the undersigned does hereby covenant and agree that he (they) shall construct upon the fire lane ~~easements~~, as ~~dedicated and~~-shown hereon, a hard surface and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction, including but not limited to the parking of motor vehicles, trailers, boats or other impediments to the access of fire apparatus. The maintenance of paving on the fire lane ~~easements~~ is the responsibility of the owner, and the owner shall post and maintain appropriate signs in conspicuous places along such fire lanes, stating "Fire Lane, No Parking." The police or his duly authorized representative is hereby authorized to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

(f) *Access Easements (if applicable)*: 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 Waxahachie, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

(g) Engineering/Construction Plans. After plat application, the developer shall submit the required copies of the complete engineering construction 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 plat. Cost estimates shall also be submitted with the construction plans. Three (3) sets of construction plans marked “approved” “Released for Construction” by the Public Works and Engineering Director or his designee and a signed approval letter from the City must be on file at the City prior to construction commencement. A drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under construction 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 engineer’s subject to approval of the plans by the City of Waxahachie. The City Manager (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 plan as specified by the City Manager 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.

h. After approval of the plat, construction plans and specifications by the City of Waxahachie, 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 supervise the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with these regulations.

i. Construction plans shall be prepared by or under the supervision of a professional engineer or architect registered in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the

Construction & Design (C&D) Manual. Construction plan 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 shall be approved by the City Manager (or designee) when such plans meet all of the requirements of this Ordinance and the C&D Manual.

j. Engineering and construction plans shall be in conformance with the Construction & Design (C&D) 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 applicable), and other engineering details of the proposed subdivision at a scale of one inch equals forty (40) or fifty (50) feet horizontally and one inch equals four (4), five (5), or ten (10) feet vertically shall be submitted to the Public Works and Engineering Director (or designee) along with the plat of the subdivision.

k. Timing of Public Improvements

1. The City Council may permit or require the deferral of the construction of the 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 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 plat. If the City Council does not defer the construction of public improvements, a plat will expire after 2 years from the approval of the plat if all requirements of the plat, including the installation of public infrastructure, have not been met. An applicant may request the City Council to extend this time period prior to the elapse of the initial 2 year period.

2. If City Council does not require that all public improvements be installed, offered for dedication and/or accepted by the City prior to approval of the plat, it shall require that the applicant provide assurances/security for the completion of the improvements, as provided in Section 6.

l. Remainder Tracts

1. A remainder tract is that portion of a larger parcel that is not included within the boundaries of a plat. Remainder tracts shall not be considered lots or tracts of a proposed subdivision. Approval of a plat shall not constitute approval of development on a remainder tract.

2. Information accompanying a plat application for remainder tracts shall be deemed to be an aid to the Planning and Zoning Commission or the City Council in taking action on the plat application and may be used to determine whether development of the land subject to the plat will be adequately served by public facilities and serves and is otherwise in compliance with this Subdivision Ordinance, taking into account the future development of the property as a whole. Information concerning remainder tracts may be considered in formulating conditions to approval of the plat application. The City, at its discretion, may require that the remainder tract be included as a platted lot if, in the opinion of the Planning Director, such inclusion will further the goals and objectives of the City's subdivision and development regulations.

~~(Ord. No. 2229, § 2(C), 4-5-04)~~

Section 2.56: - Development Plats.

- a. *Authority.* This section is adopted pursuant to Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.
- b. *Applicability.* For purposes of this section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:
 1. The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein;
 2. The development of any tract of land for which the property owner claims an exemption from the City's Subdivision Ordinance (see Subchapter A, Sections 212.001 through 212.018 of the Texas Local Government Code), including requirements to replat, which exemption is not expressly provided for in such regulations;
 3. The development of any tract of land for which the only access is a private easement/street;
 4. The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated.
- c. *Exceptions.* No development plat shall be required, where the land to be developed has received ~~plat final plat or replat~~ approval prior to the effective date of this Ordinance. The Planning and Zoning Commission may, from time to time, exempt other development or land divisions from the requirements of this section.
- d. *Prohibition on Development.* No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this section, until a development plat has

been approved by the Planning and Zoning Commission and City Council, if applicable, and filed with the City Secretary, and recorded with Ellis County.

- e. *Standards of Approval.* The development plat shall not be approved until the following standards have been satisfied:
1. The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, Thoroughfare Plan, Land Use Plan, Park and Open Space Master Plan, Water and Wastewater Master Plans and applicable capital improvements plans;
 2. The proposed development conforms to the requirements of the Zoning Ordinance;
 3. The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;
 4. Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
 5. The proposed development conforms to the design and improvement standards contained in this Ordinance and in the C & D Manual.
- f. *Conditions.* The City may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in subsection (e) above.
- g. *Land Study Requirement.* Whenever a property owner proposes to divide land into tracts or lots each of which is greater than five (5) acres, and for which no public improvements are proposed, a land study shall be submitted for the entire tract outside of the boundary of the development plat together with his application for approval of a development plat in accordance with Section 2.3 of this Ordinance.
- h. *Approval Procedure.* The application for a development plat shall be approved, conditionally approved, or denied by the City Council following review and recommendation by the Planning and Zoning Commission. Upon approval, the development plat shall be filed at the County by the City Secretary.
- i. *Submittal Requirements.* Each development plat shall:
1. Be prepared by a registered professional land surveyor ~~or professional engineer;~~
 2. Clearly show the boundary of the development plat;
 3. Show each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;
 4. Show all easements and rights-of-way within or adjacent to the development plat; and
 5. 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.

~~(Ord. No. 2229, § 2(C), 4-5-04)~~

Section 2.67: - 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 Manager~~ Public Works and Engineering Director (or designee) may waive or modify requirements for a land study and/or ~~preliminary~~ plat under circumstances where the previously approved land study or ~~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. For Single-Family Residential within City Limits: 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, if applicable, City Council ~~(no public hearing is required by the Planning and Zoning Commission)~~; and
 3. For Single-Family Residential within ETJ, Multi-Family Residential, and Non-residential: Is approved by the Planning and Zoning Commission and, if applicable, City Council; and
 4. 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, including a public hearing, 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.
- d. Notice of the public hearing required under (b) above shall be given before the fifteenth (15th) day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Ellis 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.

- e. If the owners of twenty (20) percent or more ~~of the owners~~ of the area of lots to whom notice is required to be given under Subsection (b) above file with the City a written protest of the replatting before or at the public hearing, and/or 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 (¾) of the Planning and Zoning Commission present or, if applicable, three-fourths (¾) (3/4) of the City Council members present. ~~For a legal protest, written instruments signed by the owners of at least twenty (20) percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200) feet 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 "twenty percent rule" described above, the area of streets and alleys shall be included.~~
- f. Compliance with Subsection (e) 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.
- g. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. 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.
- h. 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.
- i. 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.
- j. 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 Waxahachie, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Plat Records of Ellis County, Texas".
- k. An application submittal for a replat shall be accompanied by the required number of copies of the plat, a completed application form, the required application 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.
- l. The replat shall be filed at the County in the same manner as prescribed for a ~~final~~ plat.

~~(Ord. _____ No. _____ 2229, _____ § _____ 2(C), _____ 4-5-04)~~

Section 2.78: - 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 Manager~~Planning Director (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 (2) 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. The number of lots may be decreased on an amending plat so long as recorded covenants or restrictions are not removed; 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 2.68.
- f. Approval of an amended plat shall expire unless the amended plat is recorded in the plat records of Ellis County within ninety (90) days after the date of final approval of the amended plat.
- g. The amended plat shall be filed at the County in the same manner as prescribed for a ~~final~~ plat.

~~(Ord. No. 2229, § 2(C), 4-5-04)~~

Section 2.89: - 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 and City Council, 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 and City Council 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 City Council 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 and City Council'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 and City Council.
- e. *City-Initiated Plat Vacation.*

1. *General Conditions.* The Planning and Zoning Commission and City Council, on its motion, 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, which vacation will result in those designated lots being unplatted; 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 Ellis 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.

(Ord. ~~_____~~ No. ~~_____~~ 2229, § ~~_____~~ 2(C), ~~_____~~ 4-5-04)

Section 2.0910: - Administrative Minor Plats.

- a. An administrative 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 Planning Director City-Manager (or designee) may approve an administrative minor plat, or may, for any reason, elect to present an administrative the minor plat to the Planning and Zoning Commission and/or City Council for consideration and approval. Any decision

made on the ~~administrative minor~~ plat by the ~~Planning Director City Manager~~ (or designee) shall be approval of the plat. Should the ~~Planning Director City Manager~~ (or designee) refuse to approve the ~~administrative minor~~ plat, then the plat shall be referred to the Planning and Zoning Commission and/or City Council 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 an ~~administrative minor~~ plat.
- d. The ~~administrative minor~~ plat shall be entitled and clearly state that it is an "~~administrative minor~~ plat."
- e. Approval of an ~~administrative minor~~ plat shall expire unless the ~~administrative minor~~ plat is recorded in the plat records of Ellis County within ninety (90) days after the date of final approval of the ~~administrative minor~~ plat.
- f. The ~~administrative minor~~ plat shall be filed at the County in the same manner as prescribed for a ~~final~~ plat.

(Ord. _____ No. _____ 2229, _____ § _____ 2(C), _____ 4-5-04)

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 Waxahachie's Thoroughfare Plan and the C & D 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 C & D 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.10. 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 of oversize facilities (pursuant to Ordinance No. 1479, adopted on August 19, 1985, as may be amended).

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. The adequacy of the road network for developments of one hundred (100) or more dwelling units, or for developments generating one thousand (1,000) or more "one-way" trips per day, or for developments involving collector and/or arterial streets not appearing on the City's adopted Thoroughfare Plan, shall be demonstrated by preparation of a traffic impact analysis prepared in accordance with subsection (f), Traffic Impact Analysis, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the City may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed plat. In the event that the applicant submits a traffic impact analysis for an entire phased development project, the City may require an update of the study for later phases of the development.
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 thirty-five (35) feet, unless other provisions have been authorized through planned development approval.
5. *Off-Site Improvements.* Where traffic impact analysis demonstrates the need for such facilities, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or related developments. The City may participate in the costs of oversize improvements with the subdivider (pursuant to Ordinance No. 1479, adopted on August 19, 1985, as may be amended).
6. *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 City Council. In the case of perimeter streets, half of the total required right-of-way for such

streets shall be provided. However, in some instances more than half shall be required when a half street is impractical or unsafe and depending on the actual or proposed alignment of the street, as may be required by the City Council.

If the owner or subdivider is responsible for one-half (½) of the street, then the owner or subdivider shall either construct or provide escrow for the construction cost of the facility unless the City participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street (i.e., whatever amount of right-of-way that will bring the street up to its standard width) shall be dedicated. Improvements shall be made to all on-site facilities as defined herein (see Definitions, Section 1.17).

- (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 (3) feet horizontal to one foot vertical.
7. *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 C & D Manual and/or other City standards as may be from time to time adopted.
8. *Street Right of Way Maintenance.* It is the responsibility of a property owner or tenant to maintain any and all public right of way adjacent to their property. Maintenance includes, but is not limited to, the following: 1) ensuring vegetation and/or landscaping materials comply with the height restrictions in the Waxahachie Code of Ordinances; 2) ensuring the area is free of trash and debris; and 3) maintaining roadside ditches and driveway culvert in a manner to allow the natural drainage flow. A home owners association may take responsibility for the maintenance of all, or a portion adjacent to right of ways, in lieu of a property owner. However, in the event that the home owners association dissolves, or is no longer able to maintain the right of ways, the adjacent property owner will be responsible for said maintenance.
98. *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 C & D Manual.
910. *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 Council 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 Council determined to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares.

110. *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) The subdivision shall have no fewer than fifty (50) residential lots;

(2) The streets to be restricted to private use should be used primarily for the use of the residents of the development and may not appear on the City's Thoroughfare Plan ~~are not intended for regional or local through-traffic circulation~~ (see subsection 3.1c.10.(b) below);

~~(3) The subdivision is located in an area that is surrounded on at least three (3) sides (i.e., seventy five (75) percent of the perimeter) by natural barriers (e.g., creeks and flood plains) or similar barriers (e.g., golf course or linear park) created by man (non-qualifying barriers include screening walls, roadways, man-made drainage ditches or berms, utility easements and rights-of-way);~~

~~(34)~~ 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 (2) subdivisions shall be connected as public street subdivisions;

~~(45)~~ A mandatory property (homeowners) association, which includes all property to be served by the private streets, will be formed (see subsection 3.1c.10.(e) below); and

~~(56)~~ The subdivision conforms to any other special guidelines for private street developments as may be approved separately by the City Council.

(b) *Streets Excluded.* Streets that are shown on the City's Thoroughfare Plan as collectors (Types "D-1", "D-2", "E-1" or "E-2") or arterials (Types "A", "B" or "C") 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 and City Council may deny the creation of any other private street if, in their sole judgment, the private street would negatively affect traffic circulation on public streets, or if it would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if it would 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 (70) feet 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 "D-1" or "D-2") or larger roadway, as shown on the City's Thoroughfare Plan. Restricted access entrances shall not be allowed from minor collectors (Type "E-1" or "E-2"), minor residential/local streets (Type "F"), or from alleys. No more than two (2) gated street entrances may intersect a thoroughfare (Type "E-2" or larger) within any one-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 Waxahachie's Parks, Recreation & Open Space 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 owner's 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.

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 which 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-two (22) feet 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 (14) feet in height above the road surface, and this clearance height shall be extended for a minimum distance of fifty (50) feet 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 one hundred (100) feet 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.

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:

- (1) Larger passenger vehicles (e.g., vans, pick-up trucks, etc.);
- (2) Passenger vehicles with short trailers up to twenty-four (24) feet in length (e.g., small flatbed, camping or box-type trailers); and
- (3) 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, the Planning and Zoning Commission, and/or City Council 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 by the Public Works and Engineering Director, Police Department and Fire Department along with the construction plans for the subdivision, and must be approved by the Planning and Zoning Commission prior to construction and approval of the ~~final~~ plat.

- (l) *Waiver of Services.* The subdivision ~~final~~ plat, property deeds and property owner's 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 owner's 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), or other public utilities, the property owner may petition the City Manager 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 or other public utilities required to

meet adequacy standards for public infrastructure 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 Manager (or designee) shall advise the City Council whether escrow is to be accepted in lieu of the obligation to construct a street or thoroughfare. A property owner may also request that the City Manager accept funds, determined by City staff to be adequate to fully fund the public utilities and infrastructure required for the plat, into an escrow account in order to record the plat prior to the installation of the utilities and infrastructure. If the request is accepted, the property owner may draw down the funds in the escrow account to fund the utilities and infrastructure. In such cases, the property owner must give the City authority to authorize any withdrawal from the escrow account. Invoices and supporting documentation must be provided to City staff to verify that each withdrawal is an amount equal to the work performed associated with each pay request.

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 Manager 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, ~~and in the event that which~~ 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, highway, or public infrastructure ~~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 less than the rate of actual earnings.~~

- e. Any land study or plat involving a significant change to a proposed roadway alignment from that shown on the City of Waxahachie's Thoroughfare Plan must be preceded by submission and approval of a traffic impact analysis as specified in subsection f. below. Failure to provide for such approval prior to submission of a land study or plat shall be grounds for automatic denial.
- f. Traffic Impact Analysis. Whenever these regulations require 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 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-mile radius of the site.
 2. *Proposed Capital Improvements.* The traffic impact analysis shall identify any changes to the roadway network within one 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 Public Works [and Engineering](#) Director of the City of Waxahachie.
 - (2) *Trip Distribution.* The distribution of trips to arterial and collector roadways within the study area identified in subsection 3.1f.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 and projected daily traffic volumes; and existing traffic conditions identified pursuant to subsection 3.1f.1 above.

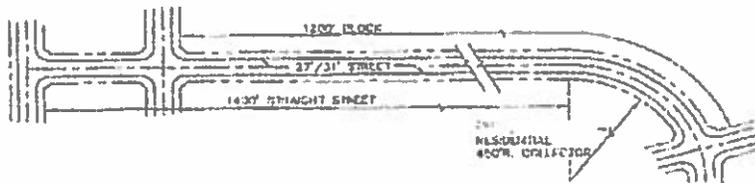
- (b) *Adequacy Determination.* The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed 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.* For intersections within the roadway traffic impact analysis area described in subsection 3.1f.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.* 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.* 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 3.1.f.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:
- (a) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
 - (b) A reduction in the density or intensity of development;
 - (c) The dedication or construction of facilities needed to achieve the level of service required herein; or
 - (d) 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.

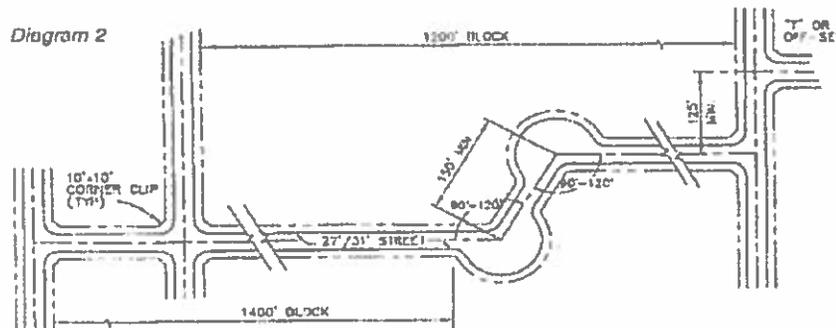
- g. Arrangement of Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the City's Thoroughfare Plan (e.g., local residential streets), the arrangement of such streets within a subdivision shall:
 - 1. Provide for the continuation or appropriate projection of existing streets 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 (125) feet 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 (2) intersecting streets.
- l. Major thoroughfare intersections shall be at ninety-degree angles and tangent to the intersecting street for at least fifty (50) feet. 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 (80) degrees.
- m. Street right-of-way widths shall be as shown on the Thoroughfare Plan, and where not shown therein shall be as shown in the C & D Manual. For subdivisions in which all lots that are thirty-six thousand (36,000) square feet in area or larger, the City may approve rural type construction design (i.e., without curb and gutter) for residential streets only, based upon a recommendation from the Public Works [and Engineering](#) Director.
- 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 (1,200) feet, 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. a. Residential streets with sixty (60) feet of right-of-way or less, excluding collector streets, shall not exceed a maximum length of six hundred (600) feet measured from the major thoroughfare right-of-way, and one thousand four hundred (1,400) feet for all other residential streets that do not intersect a major thoroughfare without one or more of the following design elements:
 - 1. A curve radius of two hundred (250) feet. Tangent between reverse curves shall be a minimum of one hundred fifty (150) feet. A one hundred fifty (150) foot offset shall be provided within the street when reverse curves are used. See Diagram 1.

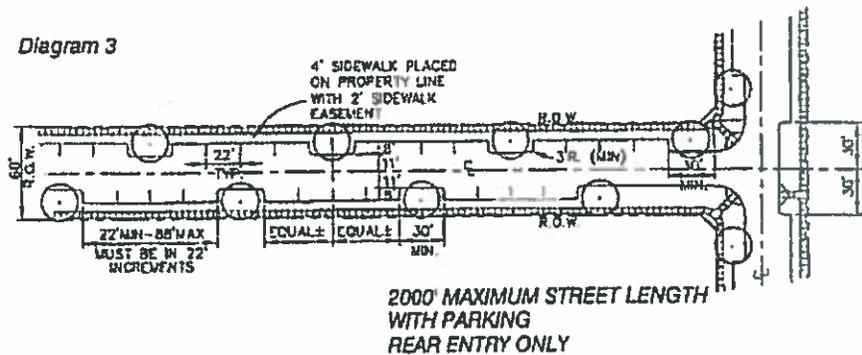


- 2. An offset within the street between ninety (90) to one hundred twenty (120) degrees. Minimum offset between reverse offsets shall be one hundred fifty (150) feet. See Diagram 2.



- b. Residential streets may extend to two thousand (2,000) feet without an offset when one of the following is provided:
 - 1. A street design with twenty-two (22) foot wide travel section with parking cut-outs that are eight (8) feet wide and eighty eight (88) feet long with a tree island between the parking cut-outs that measure twenty (20) feet long and eight (8) feet wide. Parking cutouts shall be offset from parking cutouts on the opposite of the street. A three (3) inch caliper tree shall be planted in each tree island. This option is not available for front entry product(s). Front entry product is prohibited on this street. See Diagram 3.

Diagram 3



2. Block lengths not to exceed seven hundred (700) feet with sixty (60) feet of right-of-way with twenty-seven (27) feet of residential street pavement and three (3) inch caliper tree provided in front of each residential lot between the curb and the sidewalk. This tree is in addition to the tree(s) required on a residential lot. The tree shall be installed before the Certificate of Occupancy of the house. The number of 7-6 cul-de-sacs intersecting this street is limited to twenty-five (25) percent. See Diagram 1 below.
 - c. A minimum three (3) inch caliper tree shall be used when trees are required by this Section. These trees shall be mechanically irrigated with a bubbler system or other approved irrigation system that minimizes water run-off and evaporation. Root barriers as approved by the City's landscape architect shall be installed with each tree. The homeowner shall be responsible for the irrigation and maintenance of the trees.
 - d. A collector street may exceed one thousand four hundred (1,400) feet provided that no residential lots front the collector street, and the collector street shall not have any straight sections exceeding one thousand (1,000) feet.
 - e. Divided roadways are excluded from the street length requirement.
 - q. The Planning and Zoning Commission ~~and/or City Council~~ may approve waivers/suspensions for overlength streets and/or cul-de-sacs upon consideration of the following:
 - (a) Alternative designs which would reduce street/cul-de-sac length;
 - (b) 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
 - (c) 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 (600) feet in length, and the temporary turn-around bulb must be constructed like a cul-de-sac, as provided in subsection (p) above (the Public Works [and Engineering](#) Director 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 C & D Manual of the City of Waxahachie 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 subdivisions shall have at least two (2) points of access from improved public roadways. The two (2) points of access can be from a single entrance onto a public thoroughfare if the thoroughfare is divided, and if the entry into the subdivision is also divided. Otherwise, the two (2) points of access shall be from two (2) different entrances either on a single public thoroughfare or on two (2) public thoroughfares. All residential developments shall provide no less than one entrance for every one hundred (100) lots, or portion thereof, including dead-end stubbed streets that will eventually provide connections into adjacent future developments and thence to an existing arterial or collector street. 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 Public Works [and Engineering](#) Director may waive the requirement for additional entrances into the subdivision.
- v. Streets will be constructed in accordance to the C & D Manual that is in effect at the time of subdivision construction.

~~(Ord. _____ No. _____ 2483, _____ 9-2-08)~~

Section 3.2: - Alleys.

- a. Alleys shall be optional in commercial and industrial districts. Service alleys in commercial and industrial districts shall be designed in accordance with the C & D 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 C & D Manual.

2. Alleys shall be paved in accordance with the City of Waxahachie C & D 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 C & D 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 Public Works [and Engineering](#) Director.
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 (15) feet wide or wider, as determined by the Public Works [and Engineering](#) Director, 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. (Also see Section 3.8) 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 Manager (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 lot area shall be computed inclusive of all easements. There shall be a minimum buildable area, exclusive of easements, for each lot. The minimum buildable area shall be an area one-half (½) of the required minimum lot size. If the City disputes the buildable area of any lot, the subdivider shall submit in writing that the buildable area is adequate.
- d. Where alleys are not provided in a residential subdivision, a minimum ten-foot wide 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.
- e. 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 block 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 subdivision control, the blocks shall not exceed one thousand two hundred feet (1,200') for Single-Family-1 zoning districts and eight hundred feet (800') for all other zoning districts.

(Ord. No. 2750, 7 7 14)

Section 3.5: - Sidewalks.

- a. Pedestrian concrete sidewalks not less than five feet (5') wide shall be provided within all residential subdivisions and sidewalks not less than six feet (6') shall be provided within all non-residential developments. Sidewalks not less than eight feet (8') wide shall be provided along all perimeter roadways (residential and non-residential) as set forth in the City of Waxahachie C&D Manual. Sidewalks shall be constructed within the street right-of-way, two and one-half feet (2.5') away from the right of way line and at least four feet (4') away from the street curb, and in accordance with the C & D Manual. Sidewalks shall be installed before the final building inspection by the City. A Certificate of Occupancy will not be issued until the sidewalk is in place. Sidewalks along perimeter streets shall be installed prior to subdivision acceptance.

- b. The cost and provision of any perimeter sidewalks (i.e., along major thoroughfares) may be escrowed as a part of a developer's agreement, if approved by the City Manager. The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety or welfare.
- c. Sidewalks, barrier-free ramps and pedestrian crosswalks shall be provided and designed in accordance with ADA requirements.
- d. For subdivisions with all lots thirty-six thousand (36,000) square feet in area and larger, sidewalks are not required on residential (i.e., local) streets only. However, sidewalks shall be required on collector and larger-sized streets, and on any residential/local street(s) the City deems necessary in the interest of public safety. For example, a street that will serve as a primary route for children to walk or bicycle to a neighborhood park or school shall be required to have sidewalks on one or both sides, as the City deems appropriate.
- e. It shall be the responsibility of a property owner or tenant of real property abutting upon sidewalks, at their own cost and expense, to maintain and keep the sidewalks bordering their property level and free of depressions, excavations, elevations, inconsistencies, obstacles, obstructions or encroachments, natural or artificial, above or below ground level, or which overlap, impinge upon, or appropriate any part of the sidewalk area or the space eight (8') feet above it. The property owner shall be responsible for maintenance and replacement of the sidewalks adjacent to the property if installed by the property owner, city, home builder, developer, or any other person. Any damage done to a sidewalk by the City or a City-hired contractor shall be repaired by the City or contractor. Any damage done to a sidewalk by a utility shall be repaired by the utility.

(Ord. No. 2750, 7-7-14)

Section 3.6: - 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 Waxahachie's Thoroughfare Plan. Lot access onto arterial and collector streets is subject to approval by the City Manager (or designee) and/or the Public Works and Engineering Director, either of whom 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 twenty-five (25) feet 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. Double frontage lots in residential subdivisions will not be allowed without providing appropriate screening, in accordance with Section 5.7.

Section 3.7: - Building Lines.

Front and street side 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 3.8: - Utility Services (not provided by the City of Waxahachie).

- 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, or any other such item or service for public use approved but not provided by the City of Waxahachie.
 - 2. "Feeder or feeder/lateral line" - High voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.
 - 3. "Lateral lines" - Those electric or telephone lines used to distribute power 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.
 - 4. "Service lines" - Those electric 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 Waxahachie 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 arterials (Thoroughfare Types "A" and "B", Section 3.1). 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 City Council, and all easements shall be reviewed by the utility companies and Public Works [and Engineering](#) Director 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 3.9: - Water and Wastewater Facility Design.

- a. All new subdivisions shall be connected with an approved water system designed and constructed in accordance with the C & D Manual, as amended, and shall be capable of providing water for health and emergency purposes, and individual services to each platted lot, including fire protection, unless fire protection is not required as defined in Section 5.8 Water and Sewer Requirements of this Ordinance as amended. 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 C & D Manual, whichever are applicable. 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. The cost to be borne by the subdivider and any reimbursement from subsequent users of the facility shall be in accordance with the provisions of the City's policy(s) regarding same (pursuant to Ordinance No. 1479, adopted on August 19, 1985, as may be amended).
- 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 Public Works and Engineering Director 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 Waxahachie, Ellis County (when applicable), and the ~~Texas Commission on Environmental Quality (TCEQ) Texas Natural Resources Conservation Commission (TNRCC)~~

Section 3.10: - Stormwater Collection/Conveyance Systems.

- a. *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 Waxahachie's Design Manual for the Design of Storm Drainage Systems by a registered professional engineer and approved by the Public Works and Engineering Director and City Council. All developed areas shall have concrete curb and gutter drainage systems unless the development has an average lot size of at least twenty thousand (20,000) square feet. These lower density developments can utilize drainage ditch systems or swales according to Subsection (b) [sic] below. All plans submitted to the Public Works and Engineering Director 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 Waxahachie's Design Manual for the Design of Storm Drainage Systems and the C & D Manual, and shall conform to the following standards and minimums:
1. All drainage systems must be designed in accordance with the C & D Manual. The developer shall be required to construct off-site drainage improvements (upstream, downstream, or possibly both) in accordance with the C & D Manual if such improvements are necessary to protect other properties from flooding or other negative impact resulting from construction of the proposed development.
 2. Run-off conveyed in roadway drainage ditches shall be confined to the ditch. The flow velocity in the ditch shall not exceed six (6) feet per second, and the ditch side slopes shall not exceed three (3) feet horizontal to one foot vertical (3:1). The center of the ditch shall be at least ten (10) feet from the road edge.
 3. No cross-street (i.e., perpendicular to traffic flow) flow of run-off shall be permitted unless approved by the Public Works and Engineering Director. When such drainage is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the Public Works and Engineering Director.
 4. For drainage in creeks or streams, or if the natural condition is altered by the developer, for any excavated channels, if the flow is greater than six (6) feet per second or the slope exceeds three (3) to one (3:1), limestone or similar acceptable rock, a reinforced concrete pilot channel or a concrete channel lining shall be required by the City to prevent erosion. Location and type of construction of the open channel must be approved by the Public Works and Engineering Director. These drainage facilities must be within a common space or within an easement to ensure protection of the area and access for maintenance.

5. If the flow is less than six (6) feet per second and if the slope does not exceed three (3) to one (3:1), the creek or excavated channel may be platted as part of the individual lots. The owners of these lots will be responsible for maintenance. Sufficient access shall be provided to provide for protection of these areas and for maintenance purposes.
6. For erosion and sedimentation control, the City uses the "Storm Water Quality Best Management Practices for Construction Activities in North Central Texas," a copy of which is filed in the City Manager's (or designee's) office. It is the developer's responsibility to be familiar with, and to comply with, these standards as well as any other policies the City may enact regarding erosion, sedimentation control, non-point source pollution, and other similar issues during construction of the development.
7. For any lots created by subdivision by this ordinance, cross lot drainage is prohibited. Applicants/developers/property owners subdividing property are required to drain surface runoff from an individual lot to a public ROW, or to an underground drainage system contained in a drainage easement, and will not be allowed to surface drain onto another lot. The City Manager, Public Works Director, or their designee shall have the discretion to allow modifications to the cross lot drainage requirements where adherence to these requirements would be in conflict with other city ordinances and/or regulations.

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 and City Council.
- 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 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 one-hundred-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 one-hundred-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the one-hundred-year flood is termed the floodway fringe.

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 an FMA is Required. 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 Public Works [and Engineering](#) Director. 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.
- c. 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 Waxahachie, 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 and approved by the Planning and Zoning Commission and City Council.

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.

- d. 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 (20) feet wide with a maximum five (5) to one (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 (5) feet 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 (2) reasonable points of

access to the FMA, each a minimum of twenty (20) feet 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 and City Council (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 or flood fringe area.
 6. Alternate designs to facilitate equal or better access may be permitted if approved by the Public Works and Engineering Director.
- e. 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 City Council and upon recommendation by the Public Works and Engineering Director.
- f. 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/Homeowner's 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 Waxahachie for public use (e.g., private streets, private recreation facility, landscaped entry features, etc.), or when common space or other improvements are dedicated to the City but will be maintained by a private property/homeowner's association, a property/homeowners association agreement consistent with State and other appropriate laws, must be submitted to and approved by the Planning and Zoning Commission or and City Council, if applicable, 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/homeowner's 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/homeowner's 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/homeowner's 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/homeowner's association;
 2. Place title to the common property in the property/homeowner's 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/homeowner's 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/homeowner's 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/homeowner's 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/homeowner's association or its Board, or to take any action required and

levy any assessment that the property/homeowner's association might have taken, either in the name of the property/homeowner's 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).

Section 4.4: - Park Land and Public Facility Dedication.

- a. *Purpose.* The City Council of the City of Waxahachie hereby finds as follows:
1. Recreational areas, in the form of neighborhood parks, are necessary and in the public welfare, and that the only adequate procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property as a residential subdivision in the City of Waxahachie, whether such development consists of new construction on previously vacant land or rebuilding and redeveloping existing residential areas.
 2. Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby, the standards for which are set forth in the Waxahachie Parks, Recreation and Open Space Master Plan.
 3. The cost of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.
- b. *Authority.*
1. This section is enacted in accordance with the Home Rule powers of the City of Waxahachie, granted under the Texas Constitution and statutes of the State of Texas.
 2. Any provision for parks and public open space areas shall be indicated on the ~~preliminary and final~~ plat, and shall be subject to approval by the City's Park Board, Planning and Zoning Commission and City Council.
 3. The purpose of this section is to provide for neighborhood parks as a condition of subdivision development in the City of Waxahachie.
- c. *Park Land Dedication.*
1. Prior to a plat being filed with the County Clerk of Ellis County, Texas for a development of a residential area within the City of Waxahachie, such plat shall contain a clear fee simple dedication at a pro rata rate of two acres of land for each 100 proposed dwelling units. As used in this section, a "dwelling unit" means each

individual residence, including individual residences in a multi-family structure, designed and/or intended for inhabitation by a single family. In the event platting is not required, the requirements of this Ordinance must be met at the time of the site plan approved.

2. Any proposed plat submitted to the City of Waxahachie for approval shall show the area proposed to be dedicated under this section.
 3. The City Council shall determine the suitability of land proposed to be dedicated as a neighborhood park, upon the recommendation of the Parks Board, and taking into consideration the following factors:
 - (A) Unsuitability of the land for park purposes, including the following:
 - (i) Any area primarily located in the 100-year flood plain.
 - (ii) Any areas of unusual topography or slope which renders same unusable for organized recreational activities.
 - (iii) Drainage areas may be accepted as part of a park if the channel is to remain predominantly in its natural state or constructed in accordance with City engineering standards, if no significant area of the park is cut off from access by such channel, if not less than five (5) acres of the site is above the one-hundred-year flood plain, or if the dedication is in excess of ten (10) acres, not more than fifty (50) percent of the site should be included in the one-hundred-year flood plain.
 - (B) Size of park. For purpose of this section an area of land less than five (5) acres presumptively is impractical for neighborhood park purposes.
 - (C) Access. Each park shall have pedestrian and vehicular access from one or more public streets. Street frontage shall be required to assure public access to park land.
 - (D) Proximity of existing park land. Land dedication may be unsuitable if there are sufficient parks already in the public domain for the area of the proposed development, or if the recreation potential for that area would be better served by expanding or existing neighborhood parks.
 - (E) Drainage. The park land shall have adequate drainage, as determined by the City Public Works [and Engineering](#) Director, who shall review all construction plans for any detention or retention proposed to be built on the land to be dedicated.
 - (F) Trash removal. The subdivider shall remove all trash, effuse and waste materials from the dedicated park land prior to acceptance by the City.
 4. If the City Council determines that land proposed for neighborhood park dedication is unsuitable in whole or part, it may require payment of park fees in lieu of land dedication, as set forth in subsection d., require a combination of land dedication and payment of fees, or condition plat approval on a different configuration of park land within the proposed development.
- d. *Cash in lieu of land.*

1. A subdivider responsible for land dedication under this Ordinance shall be required, at the City Council's option, to meet the dedication requirements in whole or in part by a cash payment in lieu of land. The cash payment in lieu of land dedication shall be met by the payment of a fee set from time to time by ordinance of the City Council sufficient to acquire neighborhood park land. Unless and until changed by the City Council such fee shall be \$400.00 per dwelling, and on non-residential property, \$600.00 per acre of land in the dedication, with a \$600.00 minimum on non-residential property for property under one acre.
 2. Such payment in lieu of land shall be made prior to ~~final~~ plat approval.
 3. The City of Waxahachie may from time to time decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a park service area, subsequent park land dedications for that zone shall be in cash only, the calculation of which is set forth above. Such cash payment is in addition to the payment of the required park development fee.
- e. *Special Fund, ~~Right to Refund~~.*
1. All fees in lieu of dedication collected under this section shall be deposited in the City of Waxahachie's Neighborhood Park Land Fund and used solely for the purchase, lease or other acquisition of neighborhood park land, site preparation, and installation of infrastructure and other park improvements. All expenditures from the said Fund shall be authorized by the City Council.
 2. The City of Waxahachie shall account for all fees paid into the Neighborhood Park Land Fund.
- f. *Exemptions.*
1. This section shall not apply to a ~~final~~ plat that has been recorded prior to Ord. No 2350 approved on December 5, 2005, the effective date hereof.
 2. If a replat is filed that increases the number of dwelling units from the previous plat, the park dedication requirement shall apply to the additional dwelling units.

~~(Ord. No. 2350, 12-5-05; Ord. No. 2445, 1-7-08)~~

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 may be defined further and supplemented by other ordinances adopted by the City. 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 Waxahachie 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 C & D Manual.
- e. Changes or Amendments to the C & D Manual and Other Construction/Design Documents. The Construction & Design (C & D) Manual will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the C & D Manual may be amended separately from this document. ~~The C & D Manual referenced by the Subdivision Ordinance shall be amended as a separate resolution.~~

Section 5.2: - Monuments.

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 ($\frac{1}{2}$) inch in diameter and eighteen (18) inches deep, and set flush with the top of the ground. 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 ($\frac{1}{2}$) inch and eighteen (18) inches 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 Waxahachie. It shall be the subdivider's responsibility to install street lights (per the City of Waxahachie's standard street light, where applicable) with metal poles (or approved similar material) at street intersections and at a maximum distance of six hundred (600) feet 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 one-tenth (0.1) footcandle per square foot. Street lighting materials shall be approved by the City Manager (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. Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the City Council. 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 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 Public Works and Engineering Director.

- 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 using reinforced concrete, unless otherwise approved by the City Council, and per the specifications in the City's C & D Manual.
- c. The minimum street and alley curb and gutter standards for which the construction shall be made by the developer are shown in the C & D 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 Section 228 of 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 C & D 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 Public Works [and Engineering](#) Director shall approve all driveway cuts.

Section 5.6: - Retaining Wall Requirements, Construction Regulations, and Design Criteria.

- a. **Retaining Wall Requirements.** When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half (2½) feet and the slope exceeds one unit vertical in two (2) units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:
 - 1. *Location A.* The grade change roughly follows a side or rear lot line.
 - 2. *Location B.* The grade change is adjacent to a proposed building site boundary.
 - 3. *Location C.* The grade change is adjacent to a water course or drainage easement.
- b. **Retaining Wall Design and Construction.** All retaining wall design and construction shall be in compliance with the provisions of the C & D Manual and the NCTCOG's Standard Specifications for Public Works Construction adopted by the City of Waxahachie, and shall be approved by the Public Works [and Engineering](#) Director.
- c. **Retaining Wall Maintenance.** Retaining walls shall be maintained by the owner of the property where such retaining wall is located.
- d. Retaining walls shall not be constructed parallel to and within any portion of a utility easement.

Section 5.7: - Screening and Landscaping Construction Regulations, Requirements and Design Criteria.

a. *Screening.*

1. Where subdivisions are platted so that the rear or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare (greater than sixty (60) feet in right-of-way width on the Thoroughfare Plan); a four-lane collector street; are separated from a thoroughfare by an alley; or back up to a collector or residential street, the developer shall provide, at his sole expense, screening according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line. All forms of screening shall conform to the requirements of other ordinances in the City governing sight distance for traffic safety.

A minimum fifteen (15) foot landscape buffer shall be provided exclusive of all required street and turn lane right-of-way adjacent to the Type A or Type B thoroughfare. A minimum ten (10) foot landscape buffer shall be provide exclusive of all required street and turn lane right-of-way adjacent to a Type C or Type D thoroughfare.

Trees shall be planted within the landscape buffer. The total number of caliper inches of the trees shall be equal to or exceed one (1) caliper inch per ten (10) linear feet of frontage of the landscape buffer. Minimum tree size shall be three (3) caliper inches. A single species of tree shall not exceed forty (40) percent of the plantings. These will be required to be irrigated. Any screening items will be maintained by the Home Owners Association.

2. Screening Alternatives. Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's C & D Manual and/or other related City code(s)/policy(s).
3. A maintenance easement five feet (5') in width shall be dedicated to the City on the private lot side and adjacent to the screening wall.
4. The screening wall shall be installed prior to the final acceptance of the subdivision. Landscape materials may be installed after the subdivision is accepted, upon approval of the City Manager (or designee), but in no case later than six (6) months following acceptance of the subdivision.
5. All plants (e.g., trees, shrubs, ground cover) shall be living and in sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is 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).
6. All masonry, steel and/or aluminum screening wall/fence plans and details must be designed and sealed by a registered engineer or other qualified professional, and must be approved by the Public Works [and Engineering](#) Director.
7. Required wall heights, including spans between columns, shall be from at least six (6) feet and no more than eight (8) feet. Decorative columns, pilasters, stone caps, and other features may exceed the maximum eight-foot height by up to eighteen (18) inches (i.e., total maximum height of nine and one-half (9½) feet, provided that such taller elements comprise no more than ten (10) percent of the total wall length (in elevation view).

8. Screening fences/walls shall not be constructed parallel to and within any portion of a utility easement unless written provisions are made and approved by the Public Works and Engineering Director for access and maintenance of the utility easement.
- b. *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 in Appendix "A-4" of the City's Zoning Ordinance. 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 (80) percent 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 homeowner's 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.

(Ord. _____ No. _____ 2483, _____ 9-2-08)

Section 5.8: - Water and Sewer Requirements

- a. The installation of all water and wastewater lines shall be in conformance with the C & D 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 Public Works and Engineering Director.

- 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, unless fire protection is not required as defined in Section 5.8 Water and Sewer Requirements of this Ordinance as amended, 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 either in the right-of-way or 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.
- e. Fire hydrants shall be installed in residential areas every five hundred (500) feet of laying distance, and in nonresidential areas every three hundred (300) feet of laying distance. The Fire Chief shall have the authority to approve the locations and placement of all fire hydrants (and fire lanes), and may, at his discretion, modify fire hydrant spacing based upon special design/distance circumstances.
- f. For platting of properties in the City's extraterritorial jurisdiction, a subdivision of four (4) or fewer lots is not required to have a water system with mains of sufficient size and having a sufficient number of outlets to furnish fire protection to all lots, provided that the approved plat includes a disclaimer that provides as follows: "NOTE: AT THE TIME OF PLAT APPROVAL, THIS DEVELOPMENT DOES NOT HAVE ADEQUATE WATER FLOW TO ALLOW FOR FIRE FIGHTING AND FIRE SUPPRESSION SERVICES TO ANY IMPROVED PROPERTIES."
- g. All subdivisions of greater than four (4) lots in the City's extraterritorial jurisdiction must have a water system with mains of sufficient size and having a sufficient number of outlets to furnish fire protection to all lots unless a fire flow waiver is granted for the development by the City Council. If the fire flow waiver is granted, the approved plat must include a disclaimer that provides as follows "NOTE: AT THE TIME OF PLAT APPROVAL, THIS DEVELOPMENT DOES NOT HAVE ADEQUATE WATER FLOW TO ALLOW FOR FIRE FIGHTING AND FIRE SUPPRESSION SERVICES TO ANY IMPROVED PROPERTIES." Plat applications requesting a waiver for fire protection requirements for more than four lots would be required to submit a petition for hardship waiver, per Section 1.11 Petition for Hardship Waiver of this ordinance as amended.

Section 5.9: - Improvement of Adjacent Existing Streets and Utilities.

- a. When a proposed subdivision of land, whether residential or nonresidential, abuts on both sides of an existing substandard street, or on one side of said road, being substandard according to the then existing current Thoroughfare Plan, the developer may be required to improve the existing on-site facility as that term is defined herein, including on-site sidewalks, landscaping, storm sewers and other utilities as defined in Section 1.17, to bring the same to City standards, or to replace it with a standard City street as determined by the traffic impact analysis, if required (see Section 3.1) at no cost to the City.

- b. The subdivider shall be responsible for construction of a minimum of one-half (½) or all, as the case may be, according to Subsections [a] through [d]) of the width of a residential street adjacent to the site. For the purposes of this Ordinance, residential properties shall be responsible for twenty-six (26) feet, or fifteen and one-half (15½) feet if adjacent to only one side, of paving. All other uses shall be responsible for thirty-seven (37) feet of paving, or eighteen and one-half (18½) feet if adjacent to only one side. In lieu of construction, a proportionate fee for curbs, gutters, sidewalks, storm drainage, street lights, and street signs may be assessed against any perimeter road. The perimeter and off-site streets required for improvement shall be determined by the traffic impact analysis outlined in Section 3.1.
- c. Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in Section 3.1. As with any other dead-end street, a note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street curb (on the barricade) also stating that the street will be extended in the future.

Section 5.10: - 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 Waxahachie's drainage criteria in the C & D 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 side_lot drainage swales, at the eleventh month of the second year for the required two-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 5.11: - Mail/Delivery Boxes.

All subdivisions shall provide adequate areas and access for mail boxes. 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 WAXAHACHIE

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 Council 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 Manager (or designee), the City Council 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 City Council 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 oversized facilities (pursuant to Ordinance No. 1479, adopted on August 19, 1985, 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 oversized costs. The City Council shall authorize the approval of such agreement as meeting the requirements of the City. The Public Works and Engineering Director 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 or to permit a property owner to provide funding for the required public infrastructure to record a plat prior to the installation of said infrastructure, 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, a surety bond which requires the completion of the required infrastructure within two years of the date the plat application as approved ~~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. For funds placed in escrow, the property owner must give the City authority to authorize any withdrawal from the escrow account. Invoices and supporting documentation must be provided to City staff to verify that each withdrawal is an amount equal to the work

performed associated with each pay request. 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 (100) percent 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 or escrow and letter of credit shall be subject to the approval of the City Attorney. ~~the City Attorney.~~

~~e. Letter of Credit. If the City Manager 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 two (2) years; 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 C & D Manual and the approved engineering plans, the developer may make application to the Public Works Director (or designee) to reduce the amount of the original letter of credit. If the Public Works Director (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.~~

eg. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the security to ten (10) percent 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 two (2) years 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.

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. Prior to construction of any temporary facility or improvement, the owner shall file with the City a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

Section 6.4: - Government Units.

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 6.5: - 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 land study or ~~preliminary~~ plat approval shall be deemed to have expired two years after the approval of the plat application. In those cases where an improvement agreement has been executed and security in the form of an escrow account or surety bond 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 on the property;
 5. Exercise any other rights available under the law.

Section 6.6: - Acceptance of Dedication Offers.

Acceptance of formal offers for the dedication of streets, public areas, easements and/or parks shall be by authorization of the City Manager (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 6.7: - Maintenance and Guarantee of Public Improvements.

The owner shall maintain all required public improvements for a period of two (2) years 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 two (2) years following such acceptance by the City.

Section 6.8: - Construction Procedures.

- a. A permit or a release letter is required from the Public Works and Engineering Director prior to beginning any work in the City or its extraterritorial jurisdiction which affects erosion control, public utilities, storm drainage, vegetation or tree removal, or a flood plain.

- b. Preconstruction Conference. The Public Works [and Engineering](#) Director may require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing and/or removal of vegetation and trees that are larger than eight-inch caliper.
- c. Conditions Prior to Authorization. Prior to authorizing release of a grading permit, the Public Works [and Engineering](#) Director shall be satisfied that the following conditions have been met:
 - 1. The ~~preliminary~~ plat shall be approved by the Planning and Zoning Commission and by City Council;
 - 2. All required contract documents are completed and filed with the Public Works [and Engineering](#) Director;
 - 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 Public Works [and Engineering](#) Director 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 Public Works [and Engineering](#) Director (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 Public Works [and Engineering](#) Director; and
 - 6. All applicable fees must be paid to the City.

Section 6.9: - Inspection of Public Improvements.

- a. *General Procedure.* Construction inspection shall be supervised by the Public Works [and Engineering](#) Director. Construction shall be in accordance with the approved engineering plans and the C & D Manual of the City of Waxahachie (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 approved by the Public Works [and Engineering](#) Director. If the Public Works [and Engineering](#) Director finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the City's standards and C & D 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 Public Works [and Engineering](#) Director, 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 Public Works [and Engineering](#)

Director, 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) that is compatible with the City's CADD system. When such requirements have been met, the Public Works and Engineering Director shall issue a letter of acceptance to the developer.

Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City Council 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 (100) percent of the estimated cost of those remaining improvements for a length of time to be determined by the City Council. 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 (10) percent 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 ten thousand dollars (\$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.

Upon acceptance of the required public improvements, the Public Works and Engineering Director shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

Section 6.10: - Deferral of Required Improvements.

- a. The City Council may, upon petition of the property owner and favorable recommendation of the Public Works and Engineering Director, 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 City Council, 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 6.11: - 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 Waxahachie, 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 Public Works Director. 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 single-family residential building permits for a portion of a subdivision (i.e., for not more than ~~twenty ten (20+0)~~ percent of the new residential lots), provided that a ~~preliminary~~ plat has been approved by the City, and all public improvements have been completed for that portion of the development including, but not limited to, those required for fire and emergency protection (i.e., streets including at least two (2) points of access, alleys, water lines serving fire hydrants, emergency access points, etc.). Notwithstanding, no lot may be sold nor title conveyed until the ~~final~~ plat has been approved by the City and has been recorded at the County.

~~23.~~ 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 Chief Building Official and the Public Works and Engineering Director may jointly authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, surety bond, ~~a letter of credit~~, or other sufficient surety is approved by the City Manager 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.

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 separate guidelines of the City of Waxahachie, as may be amended from time to time.

Such fees and charges, as stated below, shall be imposed and collected on all applications for approval of a land study/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.

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.

Section 7.2: - Schedule of Filing Fees.

The following fees are for the processing of development/subdivision applications, as governed by the Subdivision Ordinance of the City of Waxahachie, Texas.

a. *Land Study:*

Single-Family Residential \$250.00 plus 10.00 per lot

Multi-Family Residential & Non-Residential

~~b. *Preliminary Plat (with all required engineering/construction plans, including, but not limited to, those for paving, drainage, water, sanitary sewer, screening walls, retaining walls, required landscaping, etc.):*~~

~~Single Family Residential 250.00~~

~~Plus, per lot 10.00~~

~~Multi-Family Residential & Non-Residential~~

be. *Final Plat:*

Single-Family Residential 350.00

Plus, per lot 5.00

Multi-Family Residential & Non-Residential

cd. *Development Plat:*

Single-Family Residential 250.00

Plus, per lot 25.00

Multi-Family Residential & Non-Residential

de. *Replat:*

Single-Family Residential, within City Limits 350.00

Plus, per lot 5.00

Single-Family Residential, within ETJ, Multi-Family Residential & Non-Residential 200.00

ef. *Amended Plat:* 250.00

Plus, per lot 5.00

~~fg.~~ Plat Vacation: 250.00

Plus, per lot 5.00

~~gh.~~ Administrative~~Minor~~ Plat: 250.00

Plus, per lot 5.00

~~hi.~~ Plat Filing (i.e., at the County): 50.00

Plus County fees

~~ij.~~ Infrastructure Inspection Fee: percentage total infrastructure cost 2.5%

~~jk.~~ Change Street Name (after ~~preliminary~~ plat approval) for each name changed 100.00

~~kl.~~ Landscape/Irrigation Plan (for required landscaping and for any proposed living screens, subdivision entrance landscaping, landscaping in the right-of-way and on medians, etc.) 100.00

~~lm.~~ In addition to any other fees, a \$2,500.00 deposit will be paid at the time of submission of a ~~preliminary plat, final plat or combination preliminary plat and final plat~~ for review by City Consultants of any facilities agreement and/or civil construction plans. At the time of final approval of any given plat, the deposit will be adjusted up or down based on actual cost of review(s) by the City Consultants. An invoice for costs over \$2,500.00 will be provided to applicant or a refund to the extent actual costs are less than \$2,500.00.

~~(Ord. No. 2750, 7-7-14)~~

VIII. - ADOPTION

Section 8.1: - Adoption of Ordinance.

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 by the City Council of the City of Waxahachie, Texas, this ~~xx21st~~ day of ~~xxMay~~ 2019~~01~~.

	/s/ _____
	Mayor David Hill <u>Chuck Beatty</u>
	City of Waxahachie, Texas

ATTEST:	
/s/ _____	
Lori Cartwright Naney Ross , City Secretary	
City of Waxahachie, Texas	
(Seal)	
APPROVED AS TO FORM:	
/s/ _____	
Robert Brown Steve Chapman , City Attorney	
City of Waxahachie, Texas	

(19)

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A TEXTUAL CHANGE TO THE CITY OF WAXAHACHIE SUBDIVISION ORDINANCE, LOCATED AT APPENDIX C OF THE WAXAHACHIE CITY CODE, REGARDING THE FILING OF PLATS AND SUBDIVISION OF LAND; PROVIDING FOR SAVINGS, SEVERABILITY, AND REPEALING CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Waxahachie ("**City Council**") has adopted a comprehensive subdivision ordinance ("**Subdivision Ordinance**"), which Subdivision Ordinance is codified as Appendix C to the Waxahachie City Code; and

WHEREAS, a public hearing was held by the Planning and Zoning Commission of the City on October 15, 2019, and a public hearing was held by the City Council on October 21, 2019, with respect to the proposed textual changes to the Subdivision Ordinance; and

WHEREAS, all requirements of law for publication and all procedural requirements have been complied with, in accordance with Chapter 212 of the Local Government Code.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

Section 1. The City Council finds that the recitals set forth above are true and correct, and said recitals are incorporated into this ordinance as if set forth in full.

Section 2. That if any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect. All ordinances of the City in conflict with the provisions of this ordinance are repealed to the extent of that conflict.

Section 3. That a public emergency is found to exist which affects health, safety, property or the general welfare, in that standards and regulations for the use and development of property must be brought up to date and made effective so that suitable rules for us and development of property maybe known and in place. An emergency is declared to exist in that needed and approved improvements will be unnecessarily delayed if this ordinance is not effective upon passage and this ordinance is to be effective upon passage. This ordinance shall become effective from and after the date of its passage

PASSED, APPROVED, AND ADOPTED on this _____ day of _____,
2019.

MAYOR

ATTEST:

City Secretary



Memorandum

To: Honorable Mayor and City Council
From: Michael Scott, City Manager 
Thru:
Date: October 15, 2019
Re: Consider Professional Services Agreement and Budget Amendment for Architectural Services – City Hall Annex

Item Description: Consider approving a budget amendment increasing the 2019-20 General Items – Professional Services budget by \$97,440.00 to provide for phase I architectural services with Architexas for the City Hall Annex project

Item Summary: Last year, Council authorized funds for phase I architectural and engineering services for the conversion of 408 S. Rogers into a City Hall Annex to house the Development Services departments. Initial services included an existing facilities survey, programming, and schematics. During this process, it became clear that this plan would not adequately serve the current and future needs for this facility and this approach would not be a good use of City funds. Only a portion of the allocated funds were utilized during this initial process, causing the remaining to return to fund balance.

After discussions with both Architexas and the Historic Preservation Commission ("HPC"), management proposes a new agreement with Architexas to consider a new approach that would include a larger, new construction building on the site. Such a facility would better serve the City's growth needs and may potentially include: the City Hall Annex office space, street level retail space to expand the downtown experience to the south, and public restrooms and additional parking that will also serve the new Railyard Park.

This professional services agreement will provide for project programming, schematic design and a detailed budget development. The agreement also contemplates engaging the HPC committee to ensure their input and by-in to the facility design. At conclusion of this phase, a phase 2 agreement will be presented to provide for the development of construction documents.

(20)

Fiscal Impact: This requested budget amendment would increase the General Items – Professional Services (100-140-53200) budget from \$143,920 to \$241,360. These additional funds are available from the General Fund unrestrictive reserve balance. The reserve balance has sufficient funds to absorb this request.

Request: Approval of budget amendment in the amount of \$97,440 and authorization for City Manager to engage Architexas for phase 1 architectural services for City Hall Annex project.

(21)



Memorandum

To: Honorable Mayor and City Council
 From: Wade G. Goolsby, Chief of Police
 Thru: Michael Scott, City Manager
 Date: September 24, 2019
 Re: Animal Ordinance

Over the past few years, we have encountered numerous situations related to animal complaints that were not addressed by our existing ordinance. There were times when we had no enforcement power but common sense would dictate that actions should be taken. In an effort to address these issues, we have undertaken a significant overhaul of our Animal and Fowl ordinance. The new ordinance closes a lot of the gaps that we have in our existing ordinance. The revised ordinance also gave us an opportunity to review past practices and evaluate the effectiveness of them. If past practices have been ineffective, we tried to address them in the ordinance.

There are several significant changes in the proposed ordinance. First, we have changed the name of Animal Control to Animal Services. The term "Animal Control" is reflective of the past and the "dog catcher" whereas "Animal Services" better reflects the services that we provide today in answering animal complaints, ensuring animal care throughout the city, and re-homing animals.

The second significant change is a change in our process for sterilizing animals. Currently, we adopt an animal to a citizen and they sign a contract agreeing to have the animal sterilized (spayed or neutered). Unfortunately, we have learned through experience that a large percentage of people never have the animal sterilized. In the

(2)

new ordinance, the animal will be sterilized prior to being released and the adoption fees have been modified to cover the expense of sterilizing the animal. We are committed to keeping the adoption costs at a minimum in order to maximize the number of adoptions.

A complete list of the proposed changes are shown below:

Global Change

- Changes all references to City animal control to "Animal Services Department" for consistency

Chapter 6 ANIMALS AND FOWL; Article I – In General

- Animal Services Department and animal control officers tasked with enforcement **(Sec. 6-2)**
- City officials exempt from liability for enforcement efforts **(Sec. 6-3)**
- Establishes specific penalties for violations **(Sec. 6-4)**
- Parents/legal guardians responsible for minor's animals **(Sec. 6-5)**
- ASD and animal control officers have authority to inspection animals/premises **(Sec. 6-7)**
- Establishes specific types of animal public nuisance violations (Noise; Waste; Unsanitary Conditions; At Large; Annoyance) **(Sec. 6-9)**
- Establishes animal noise complaint procedures **(Sec. 6-9)**
- Revises animal carcass regulations **(Sec. 6-11)**
- Establishes animal care guidelines **(Sec. 6-14)**
- Establishes animal restraint regulations and violations **(Sec. 6-15)**
- Establishes inhumane treatment regulations **(Sec. 6-16)**
- Establishes animal sales regulations **(Sec. 6-17)**
- Establishes service animal regulations **(Sec. 6-18)**
- Establishes animal baiting/trapping regulations **(Sec. 6-19)**
- Establishes animal establishment regulations **(Sec. 6-20)**

Chapter 6 ANIMALS AND FOWL; Article II – Dogs and Cats

- Revises dogs and cats at large regulations **(Sec. 6-26)**
- Revises dog and cat at large impoundment procedures **(Sec. 6-27)**
- Revises dogs defecating on public/private property regulations **(Sec. 6-28)**
- Revises dog licensing regulations/procedures **(Sec. 6-29)**
- Incorporates use of microchips in lieu of registration tags **(Sec. 6-33)**
- Clarifies dog and cat redemption periods following impounded **(Sec. 6-39)**
- Revises sterilization of adopted cats or dogs **(Sec 6-40)**
- Revises dog and cat ownership regulations **(Sec. 6-43)**
- Establishes feral cat management **(Sec. 6-44)**
- Revises minimum acres required for kennels **(Sec. 6-44)**

(21)

Chapter 6 ANIMALS AND FOWL; Article III – Livestock, Fowl, Rabbits and Reptiles

- Establishes impoundment and disposal procedures for such animals found at large (**Sec. 6-51**)
- Revises regulations for keeping fowl/pigeons/rabbits/guinea pigs in residential area (**Sec. 6-52**)
- Establishes regulations for keeping snakes and lizards in city (**Sec. 6-54**)

Chapter 6 ANIMALS AND FOWL; Article IV – Dangerous Animals; Division 1 – Animals Other than Dogs

- Establishes non-compliance with dangerous animal requirements is illegal (**Sec. 6-61.1**)
- Clarifies appeal process of municipal court determination of dangerous animal (**Sec. 6-62**)
- Revises possession of dangerous animal requirements (**Sec. 6-62.1**)
- Revises registration of dangerous animal procedures (**Sec. 6-63**)
- Revises owner penalties for attack by dangerous animal (**Sec. 6-64**)

Chapter 6 ANIMALS AND FOWL; Article IV – Dangerous Animals; Division 2 - Dogs

- Revises definition of dangerous dog (**Sec. 6-67.1**)
- Clarifies appeal process of municipal court determination of dangerous animal (**Sec. 6-67.5**)
- Revises possession of dangerous animal requirements and penalties for attack by dangerous animal (**Sec. 6-67.6**)
- Revises registration of dangerous animal procedures (**Sec. 6-67.7**)
- Establishes prohibition against possession dog determined to be dangerous by another jurisdiction (**Sec. 6-68**)
- Establishes parent/legal guardian responsible for attack by minor's animal (**Sec. 6-69**)

Chapter 6 ANIMALS AND FOWL; Article V – Rabies

- Establishes failure to vaccinate for rabies is illegal (**Sec. 6-75**)
- Clarifies that rabies regulations apply to bites and scratches (**Sec. 6-77 and 6-83**)
- Establishes quarantine necessary when veterinarian suspects rabies (**Sec. 6-79.1 and 6-79.2**)

Chapter 6 ANIMALS AND FOWL; Article VI – Prohibited Animals

- Establishes regulations for keeping live swine within city limits (**Sec. 6-90**)
- Establishes prohibition against keeping bees within city limits (**Sec. 6-91**)
- Adds wild-hybrid animals to wild animal and venomous reptile regulations (**Sec. 6-92**)

Chapter 6 ANIMALS AND FOWL; Article VII - Fees

- Revises animal registration fee (**Sec. 6-95**)

(21)

- Revises animal turn-in fees (Impound fees; Euthanasia; Animal Disposal; Rabies Testing and Quarantine) **(Sec. 6-96)**
- Revises dog and cat adoption fees **(Sec. 6-97)**
- Revises impoundment fees (Quarantined Animals; Redemption) **(Sec. 6-98)**
- Establishes four animal offenses may result in mandatory animal removal from city **(Sec. 6-98)**

The proposed ordinance has been reviewed and approved by the City Attorney and has been reviewed by the City Manager. I respectfully request approval of the proposed ordinances.

(21)

ORDINANCE NO.

AN ORDINANCE REPEALING AND REPLACING CHAPTER 6 (ANIMAL AND FOWL) OF THE CODE OF ORDINANCES, CITY OF WAXAHACHIE, AND SETTING AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WAXAHACHIE, TEXAS:

THAT CHAPTER 6 OF THE CODE OF ORDINANCES, CITY OF WAXAHACHIE, IS HEREBY REPEALED AND REPLACED TO READ AS FOLLOWS:

Chapter 6 - ANIMALS AND FOWL

ARTICLE I. - IN GENERAL

Sec. 6-1. - Definitions.

The following words and phrases shall, for the purposes of this chapter, have the meanings respectively ascribed to them:

Abandon: leaving an animal in any place without providing reasonable and necessary care including, but not limited to, air, food, water, or protection from adverse elements such as heat, cold, etc.

Adult: Any animal three (3) months of age or older.

Animal: Any living, vertebrate creature, domestic or wild, other than homo sapiens, insects, and plants.

Animal Services Commander: the police Commander (holding the rank of Lieutenant or higher) that supervises the Animal Services Department.

Animal control officer: any person designated by the city manager to represent and act for the city to receive reports of animal bites, investigate bite reports, ensure quarantine of possibly rabid animals, and carry out and enforce the general regulations of the provisions of this chapter.

Animal establishment: means any pet shop, kennel, grooming shop, auction, flea market, performing animal exhibition, or other facility or commercial enterprise engaged in the buying, selling, grooming, breeding, boarding or handling of domestic animals, excluding veterinary clinics, hospitals, animal shelters and individuals caring for animals in their private residence in compliance with the terms of this chapter.

Animal shelter: means any facility operated or designated by the city for the purpose of impounding and caring for animals as prescribed by law.

(21)

Applicable fees: Those reasonable charges incurred for the care and maintenance provided by the animal shelter for impounded animals.

Assistance animal: means an animal that is specially trained or equipped to help a person with a disability and that:

- (1) is used by a person with a disability who has satisfactorily completed a specific course of training in the use of the animals; and
- (2) has been trained by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide animals with training of this type.

At large: Any dog not confined to the premises of the owner or within a house or other building or enclosure or restrained upon the premises of the owner by a leash sufficiently strong to prevent the dog from escaping and restricting the dog to the premises, or not confined by a leash or confined within an automobile or confined by a leash on a vehicle (i.e., pickup truck) while the vehicle is parked, when away from the premises of the owner.

Bee: any common domestic honeybee (*apis mellifera*).

Cat: A commonly domesticated member of the Felidae (feline) family.

Dangerous animal:

- (1) Any animal that when unprovoked inflicts bites on or attacks a human being or other animal either on public or private property or, in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public or private grounds or places;
- (2) Any animal with a known propensity, tendency or disposition to attack unprovoked to cause injury or to otherwise endanger the safety of human beings or animals; or
- (3) Any animal suspected of being a dangerous animal if the owner, keeper or harbinger of such animal fails or refuses to make such animal available for inspection by an animal control officer.

Dangerous propensities: any one, or a combination, of the animal behaviors of biting, snarling, charging aggressively toward a person or another animal, growling with curled lips, popping of teeth, or barking with raised hackles.

Dog: A commonly domesticated member of the Canidae (canine) family.

Dog license: A legally granted privilege, upon compliance with the terms of this chapter, to own, keep, harbor, or have custody or control of a dog within the city limits.

(21)

Dog tag: A metal tag authorized by the city for attachment to a dog collar which displays a serial number corresponding to the number of dog license for such animal, and which shows the year the license was issued by the city.

Dog tethering: means using a chain, rope, tether, leash, cable, or other device to attach a dog to a stationary object or trolley system.

Domestic animal: means any animal whose physiology has been determined or manipulated through selective breeding, and that does not occur naturally in the wild, and that may be vaccinated against rabies with an approved rabies vaccine, and that has an established rabies quarantine observation period. The term domestic animal includes livestock, caged or penned fowl other than animals belonging to the class aves, order Falconiforms and subdivision Raptae, normal household pets, such as but not limited to dogs, cats, cockatiels, ferrets, hamsters, guinea pigs, gerbils, rabbits, fish or small, nonpoisonous reptiles or nonpoisonous snakes.

Estray: Any livestock found running at large.

Exotic animals: nonnative species of animal including, but not limited to, nonpoisonous reptiles which, when mature, are over six (6) feet in length, ostriches, any member of the Ratite family or exotic livestock as defined by the state animal health commission.

Fowl: Chickens, ducks, guineas, pigeons, pheasants, peacocks, geese, quail, dove, or similar feathered animals, except parakeets, parrots, or other birds that are customarily retained as common household pets.

Guard dog: means any dog that has been trained for the purpose of protecting property by a guard dog company that is required to be licensed pursuant to Texas Occupations Code, Ch. 1702, V.T.C.S., as amended from time to time, or a dog that received protection or guard dog training and is used by law enforcement, private security, or in protective functions where the dog is responsive to control by its owner or handler and is used only for protective functions, irrespective of its status as a personal pet of its owner or handler.

Harboring: the act of keeping and caring for an animal or of providing a premises to which the animal returns for food, shelter or care for a period of three (3) days.

Humanely euthanized: to cause the death of an animal by a method which:

- (1) Rapidly produces unconsciousness and death without visible evidence of pain or distress; or
- (2) Utilizes anesthesia produced by an approved agent, which causes painless loss of consciousness, and death following such loss of consciousness.

Humane trap: a box cage for catching animals in a humane manner.

(21)

Impound: To take an animal in to custody by the city; impoundment shall begin at the time any animal control officer or police officer takes control of an animal either by hand, rope, trap, projectile, or confinement to a vehicle.

Kennel: An establishment designed or used for the boarding, selling, or breeding of animals where more than four (4) animals are to be boarded, sold, or bred.

Licensed Veterinarian: means a person authorized to practice veterinary medicine who is currently licensed by the Texas State Board of Veterinary Medical Examiners.

Livestock: Any animal raised for human consumption or an equine animal including, but not limited to, horses, stallions, mares, gelding, filly, colts, mules, hinny, jacks, jennets, donkeys, llamas, burros, goats, sheep, a head of any species of cattle, or emus, ostrich, or rhea, or any crossbreeding of such species.

Local Rabies Control Authority (LRCA): means the officer designated by the city under the Health and Safety Code § 826.017 or his or her designee.

Owner: Any person who owns, keeps, shelters, maintains, feeds, harbors, or has temporary or permanent custody of a domestic or prohibited animal, or who knowingly permits a domestic or prohibited animal to remain on or about any premises occupied by that person over which that person has control. An animal shall be deemed to be owned by a person who harbored it, fed it, or sheltered it for three (3) consecutive days or more.

Person: any individual, firm, association, partnership, or corporation.

Pet: means any animal kept for pleasure rather than utility.

Prohibited animal: any animal, except birds kept in a cage or aviary that is not regulated by international, federal or state law, or common domestic species which include gerbils, hamsters, guinea pigs or laboratory mice or rats, and regardless of state or duration of captivity, that poses a potential physical or disease threat to the public or that is protected by international, federal or state regulations, including but not limited to the following:

- (1) Class Reptilia: Family Helodermatidea (venomous lizards); Family Viperidae (rattlesnakes, copperheads, cottonmouths, other pit vipers and true vipers); Family Elapidae (coral snakes, cobras, mambas, and other elapids); the following listed species of Family Colubridae-Dispholidus typus (Boomslang), Hydrodynastes gigas (water cobra), Boiga (mangrove snake), and Thelotornis (African twig snake) only; Order Phidia, Family Boidae (racers, boas, water snakes, and pythons); and Order Crocodilia (crocodiles, alligators, caimans, and gavials);
- (2) Class Aves: Order Falconiforms (such as hawks, eagles, and vultures); Subdivision Ratitae (such as ostriches, rheas, cassowaries, and emus); and Order Strigiforms (such as owls);
- (3) Class Mammalia: Order Carnivora, Family Felidae (such as ocelots, margays, tigers, jaguars, leopards, and cougars), except commonly accepted domesticated cats; Family

(21)

Canidae (such as wolves, wolf-dog hybrids, dingos, coyotes, and jackals), except domesticated dogs; Family Mustelidae (such as weasels, skunks, martens, mink, and badgers), except ferrets; Family Procyonidae (raccoon); Family Ursidae (such as bears); Order Marsupialia (such as kangaroos and common opossums); Order Edentata (such as sloths, anteaters, and armadillos); Order Proboscidea (elephants); Order Primata (such as monkeys, chimpanzees, and gorillas); Order Rodentia (such as porcupines); and Order Ungulata (such as antelope, deer, bison, and camels); and

- (4) Animals not listed: The animal control officer may declare any species of animal not listed in this subsection as "prohibited" if the confinement of the animal within the city can be shown to constitute a threat to public health and safety.

Properly fitted with respect to a collar or other neck restraint: means a collar or other neck restraint that measures the circumference of a dog's neck plus at least one (1) inch. With respect to a harness, properly fitted means a harness that is of an adequate size, design, and construction as appropriate for the dog's size and weight.

Public nuisance: Whatever is declared by the Animal Services Commander to be dangerous to human life, health, or welfare, or to threaten to become detrimental to the public health or welfare.

Public safety officer: means a City public safety officer, including animal control officers, police officers, code compliance officers, environmental health officers, and members of the fire department.

Quarantine: To take into custody and place in confinement as defined in this chapter isolated from human beings and other animals in such a way as to preclude the possibility of disease transmission.

Rabies: An acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

Restraint: means an animal that is under restraint under any of the following:

- (1) it is securely enclosed or confined to its owner's yard by a physical fence in a manner that will isolate the animal from the public and from other animals except for animals owned or under the control of the owner;
- (2) It is accompanied by its owner or trainer at a bona fide dog show, field trial, or exhibition; or
- (3) It is secured by a person holding a leash no more than six (6) feet in length and of sufficient strength to control the animal; or
- (4) It is an assistance or service animal; as defined by this chapter, that is being used by a person with a disability or

(21)

- (5) It is a guard dog in performance of duty in an enclosed building or securely fenced and locked area that is marked on all sides with signs in four-inch (4") letters stating "guard dog" and clearly visible to the public.

Sanitary: Any condition of good order and cleanliness, which discourages and limits disease transmission.

Secure enclosure: A fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of other animals or young children, and suitable to confine a female in heat or dangerous animal in conjunction with other measures which may be taken by the owner. Such enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal(s) from escaping from the enclosure.

Securely enclosed or confined: means:

- (1) an area that is completely surrounded by a substantial fence or enclosure of sufficient strength, height, construction, materials, and design as to prevent any animal from escaping from the area and in a manner that will isolate the animal from the public and other animals except for animals owned or under the control of the owner;
- (2) The term "securely enclosed or confined" does not mean enclosure or confinement by an invisible or electric fence.
- (3) Such fence or enclosure shall comply with the appropriate zoning regulations applicable to the property.

Serious/Severe bodily injury: Physical pain, illness, or any impairment of physical condition; an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonable prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Service Animal: Any animal used for but not limited to, law enforcement, private security, handicap and therapeutic conditions or any other function where the animal has been trained for and received written certification.

Spay/neuter: the surgical removal of the reproductive organs of a dog or cat to render the animal unable to reproduce.

Sterilization: Surgical removal of the reproductive organs of an animal to render the animal unable to reproduce.

Stray: An animal that is improperly restrained and that wanders upon a public place, road way, street, highway or the property of another person.

(21)

Unprovoked attack by an animal: An incident in which an animal, has attacked a human being or an animal was not hit, kicked, or struck by a human being with any object or part of a human being's body, nor was any part of the animals body pulled, pinched, or squeezed by a human being, nor was the animal taunted or teased by any human being, nor was the human being in the animals territory or on the property of the animals owner at the time of the attack.

Unreasonable Noise: Nuisance noise from a dog is defined as barking or whining for more than 15-minutes in any 1-hour period. Excessive barking is barking that is persistent and occurs for an extended period of time or on a repeated basis. When determining if barking is a violation, consideration will be given to the time of day, duration and frequency of barking.

Vaccinated animal: Unless otherwise indicated, an animal vaccinated against rabies within the past twelve (12) months by a licensed veterinarian.

Vaccination certificate: means the certificate issued by a licensed veterinarian on a form approved by the Texas Department of State Health Services.

Venomous reptiles: Any venomous lizard (family helodermatidae), venomous marine snakes (hydrophiidae), rattlesnakes, pit vipers, and true vipers (viperae), coral snakes, cobras, mambas (elapidae); or any crossbreeding of such species.

Veterinarian: a doctor of veterinary medicine who holds a valid license to practice his profession in the state.

Veterinary Hospital or Clinic: means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of disease and injuries to animals.

Wild animals: any poisonous or dangerous reptile, or any other animal which can normally be found in the wild state, not normally capable of being domesticated including, but not limited to, foxes, leopards, lions, lynx monkeys (nonhuman primates), panthers, raccoons, skunks and also includes offspring of domesticated canine and wild canine cross-breeds such as coyote or wolf hybrids. This shall apply regardless of duration of captivity.

Zoonotic Disease: shall mean an illness which is of animal origin and is transmissible to humans.

Sec. 6-2 – Enforcement.

The Waxahachie Animal Services Department shall be an office of the city and shall be in the charge of a person designated by the city manager as the Animal Services Department supervisor. The Animal Services Department and animal control officers shall be tasked with enforcing the provisions of this chapter and of state law related to the health, care, and safety of animals. The Animal Services Department and supervisor shall be overseen by, and subject to the authority of the Animal Services Department Commander.

(21)

Sec. 6-3 – Exemption of City officials from liability.

All of the regulations provided in this chapter and the functions and duties of all officers, agents, servants, or employees of the city in the enforcement of this chapter are declared to be governmental and for the benefit, health, and welfare of the general public. Any city official or employee charged with the enforcement of this chapter, acting for the city in the discharge of his or her duties, shall not thereby render himself or herself personally liable by the performance of any act required or permitted in the discharge of his or her duties.

Sec. 6-4 – Violations.

- (a) Unless otherwise provided in this chapter, any violation, disobedience, omission, neglect, failure or refusal to comply with the enforcement of any of the provisions of this chapter shall be punishable by a fine not to exceed five hundred dollars (\$500.00) for each violation. Each day that a violation is permitted to exist shall constitute a separate offense.
- (b) Unless otherwise specifically required by this chapter or by state law, allegation and evidence of a culpable mental state is not required to prove a violation of any provisions of this chapter.
- (c) If allegation and proof of a culpable mental state is required to prove a violation of a provision of this chapter, a culpable mental state of “criminal negligence” is required.

Sec. 6-5. – Parental responsibility.

- (a) If an animal is owned or purported to be owned by an individual who is younger than seventeen (17) years of age, responsibility and liability for compliance with this chapter with respect to such an animal may be imposed on the parent, legal guardian, or other person who has the duty of control and reasonable discipline of the minor individual, as appropriate, regardless of whether the parent, legal guardian, or other person otherwise meets the definition of “owner” with respect to the animal at issue.
- (b) It shall be an affirmative defense to imposition of responsibility and liability under subsection (a), above, that the parent, legal guardian, or other persons establishes by a preponderance of the evidence that he or she made a reasonable good faith effort to ensure compliance with this chapter.

Sec. 6-6. - Exemptions.

- (a) Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this article, except where expressly stated.
- (b) The licensing and vaccination requirements of this article shall not apply to any dog belonging to a nonresident of the city and kept within the city for no longer than thirty

(21)

(30) days; provided, all such dogs shall at all times while in the city be kept within a building, enclosure, or vehicle or be under restraint by the owner.

Sec. 6-7 – Inspection of animals and premises.

The Animal Services Department Commander or their designee shall have the authority to inspect animals and/or premises. For purposes of discharging the duties imposed by the provisions of this chapter or other applicable laws, an animal control officer may enter upon private property to the full extent permitted by law.

Sec. 6-8. - Abandonment of animals.

It shall be unlawful for any person to abandon any animal within the corporate limits of the city.

Sec. 6-9. - Public nuisance.

- (a) It shall be unlawful for any owner to keep or harbor any animal in a manner that permits, allows, causes, or constitutes a public nuisance. A public nuisance includes, but is not limited to, an owner failing to control or restrain, or otherwise allowing, either by conduct, omission, or conditions of premises, any animal:
- (1) (Noise) to cause a disturbance by excessive, continuous, untimely or *unreasonable* barking, howling, crowing or otherwise audible noise. Such noise, in excess of fifteen (15) minutes, shall be prima facie evidence of a public nuisance;
 - (2) (Waste) to urinate or defecate upon any public place, building or right-of-way, or any private property not owned by them, unless the waste is immediately removed and properly disposed of by the owner; or
 - (3) (Waste) to generate or accumulate waste on the owner's property, or the owner's failure to dispose of the animal's waste in a manner, to such a degree as to cause unsanitary, dangerous or offensive conditions that may injure public health or offend persons of ordinary sensibilities located in the vicinity of the property or the public at large; or
 - (4) (Unsanitary Conditions) to accumulate, attract, or generate maggots, flies, odors or unsanitary conditions sufficient to offend persons of ordinary sensibilities located within the vicinity of the owner's property; or
 - (5) (At Large/Running at Large) to be at large or running at large as defined in this Chapter; or
 - (6) (Annoyance) to chase vehicles, molest, attack or interfere with other animals or persons on public property; or

(21)

- (7) (Other) to otherwise act or fail to act in a manner in violation of this Chapter, except where otherwise provided.
- (b) A person disturbed by an animal noise near a private residence may file a complaint with the Animal Services department.
 - (1) A complaint must include the name and address of the complainant, the exact address of the disturbance, the type of animal causing the disturbance and the times that the animal is causing the disturbance
 - (2) The animal control officer shall hand deliver or mail the owner or harbinger of the animal at issue a notice that a disturbance complaint has been received. If a notice has been mailed to the owner of the animal causing the disturbance, a copy of the letter will also be mailed to the complainant.
 - (3) If an owner or harbinger continues to allow their animal to cause a disturbance after seventy-two (72) hours, the complainant may file a complaint in writing with the municipal court.

Sec. 6-10. - Female animals in heat.

All female animals in heat (estrus) shall be confined in a building or secure enclosure on the owner's property or upon a leash and attended in such a manner that the animal cannot come into contact with a male animal except for planned breeding purposes.

Sec. 6-11. – Dead animals.

- (a) It shall be unlawful for any person to permit the carcass of any dead animal to be, or remain, upon any property under their control for more than twenty-four (24) hours after the death of the animal. This Section shall not apply to animals specifically slaughtered and/or appropriately stored for food, or prepared by a taxidermist for the purpose of display. The Waxahachie Animal Services Department Commander, or their designee shall in their sole discretion determine whether a carcass is subject to the above exception.
- (b) It shall be unlawful for any person to slaughter, skin or de-feather an animal within the city limits whereby such slaughter is in view of the public, unless such slaughter is done as part of a bona fide, licensed business. It shall further be unlawful for any person to butcher or display the carcass of an animal carcass actually cooking over a barbecue pit, or a dead animal being prepared by a taxidermist for display.
- (c) The animal control officer shall have the authority to take custody of and dispose of all deceased animals found on any roadway, street, highway, and/or public or private property where the owner cannot otherwise be identified or located.

(21)

- (d) It shall be the specific responsibility of the owner of any livestock to have the live removed and properly disposed of within twenty-four (24) hours of the death of said livestock, consistent with state law.

Sec. 6-12. - Disposition of injured or ill animals.

Any animal that is found or impounded, regardless of the seventy-two-hour hold period, by the animal control officer, that does not have identification tags, that appears to be suffering from extreme injury or illness may be euthanized or given to a nonprofit humane organization for the purpose of veterinary medical care, as determined by the animal control officer.

Sec. 6-13. - Unlawful possession.

It shall be unlawful for any person to own, keep, possess, or harbor any animal in the city, except as provided in this article, and any failure, neglect, or refusal to comply with the provisions of this article or any act or omission contrary to the terms thereof shall be deemed a misdemeanor.

Sec. 6-14. - Animal Care Guidelines.

(a) Provisions of food, shelter, and care. No person shall fail to provide his/her animal, as determined by the Animal Services Department, with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(b) Poisonous substances. No person shall knowingly expose any known poisonous substance, whether mixed with food or not, so that the same may be eaten by any pet or domestic animal.

(c) Leaving animals in parked vehicles. It shall be unlawful to leave an animal in a standing or parked vehicle without providing the animal with adequate air and protection from the heat or cold. An animal left under such conditions may be impounded. Animal control officers/peace officers finding an animal being held in violation of this provision may cite the owner for violating this Ordinance, and/or use reasonable force to remove an animal from a vehicle whenever it appears the animal's health or safety is, or soon will be endangered, and said neglected or endangered animal shall be impounded and held pending a hearing. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the animal control officer or peace officer.

(d) Leaving animals unattended. No person shall keep, harbor or allow an animal to remain for more than forty-eight (48) hours at a residential dwelling that does not have water service. It shall be a defense to prosecution under this subsection if the owner has arranged for regular care and feeding of the animal during the owner's absence at a residential dwelling that has functional water service.

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(e) Sanitary standards. The owner of any animal allowed by this chapter to be kept in the city shall comply with following standards of sanitation for that animal:

- (1) Remove manure and droppings from pens, stables, yards, cages and other enclosures, and handle or dispose of the excretions in such manner as to keep the premises free of any public nuisance.
- (2) Remove all refuse on the premises and dispose of same by a means approved by the Waxahachie Animal Services department.

(f) All above standards shall be interpreted and administered by the Animal Services Department in its sole discretion.

Sec. 6-15. - Restraint of dog and other animals.

(a) It shall be unlawful for an owner or person in control of an animal to fail to keep the animal under restraint as defined in this chapter.

(b) It shall be unlawful for any person to tie or tether an animal to a stationary object for a period of time or in a location so as to create an unhealthy situation for the animal or a potentially dangerous situation for a pedestrian as determined by an animal control officer. The terms "unhealthy situation" and "potentially dangerous situation" shall include, but not be limited to the following:

- (1) To tether any animal in such a manner as to permit the animal access upon any public right-of-way;
- (2) To tether any animal in such a manner as to cause the animal injury or pain or not to permit the animal to reach shelter, food and/or water or otherwise create an unsafe or unhealthy situation;
- (3) To tether any animal in such as manner as to permit the animal to leave the owner's property;
- (4) To tether any animal in an area that is not properly fenced so as to prevent any person or child from entering the area occupied by said animal;
- (5) To tether any pet animal in a manner whereby the animal is subject to harassment, stings or bites from outdoor insects, or attacks by other animals;
- (6) To tether any pet animal with a tether that is less than ten (10) feet in length;
- (7) To tether any animal with a tether that is not equipped with swivel ends;
- (8) To tether any animal in such a manner that does not prevent the animal from becoming entangled with any obstruction, from partially or totally jumping

(21)

any fence, or from leaving part of its owner's property.

- (9) To fail to remove waste from the tethered area on a daily basis;
- (10) To tether any animal without using a properly fitted collar or harness;
- (11) To use choke-type collars to tether any animal; or
- (12) To use a tether that weighs more than one fifth (1/5) of the animal's body weight.

(c) These sections do not prohibit a person from walking a dog with a hand-held leash.

Sec. 6-16. – Inhumane Treatments of Animals.

- (a) The Animal Services Department shall utilize the authority granted by federal, state and local laws to lawfully seize and impound any animal if the public safety officer(s) has reason to believe that an animal has been, or is being cruelly treated, pending a hearing before any Justice of the Peace or any municipal court judge on the issues of cruelty and disposition of the animal. Seizure of the subject animal prior to receiving a warrant is hereby authorized if there is a reasonable belief that such a delay endangers the life or well-being of the animal, or would unreasonably prolong the suffering of the animal needing immediate attention. If the City officer personally witnesses a violation of any provision of this section occurring in plain view from or on public property or from private property where the officer has the permission of the owner or occupant to be, the officer may seize the animal without seeking issuance of a warrant even if doing so requires entering onto or into private property.
- (b) Animals shall be cared for, treated, maintained, and transported in a humane manner and not in violation of any provision of law, including federal, state, and local laws, ordinances, and administrative rules.
- (c) In addition, a person commits an offense if:
 - (1) A person other than a licensed veterinarian docks an animal's tail or removes dew claws of a puppy over five (5) days of age, or crops an animal's ears of any age;
 - (2) A person physically removes from its mother by selling, giving away, delivering, trading, or bartering any dog, cat, ferret, or rabbit less than six (6) weeks old or any other animal that is not yet weaned, except as advised by a licensed veterinarian;
 - (3) A person abandons or dumps any animal;
 - (4) A person who is in control of a motor vehicle that strikes a domestic animal fails to report the accident to the Waxahachie Animal Services department as

(21)

soon as possible;

- (5) A person overdrives, overloads, drives when overloaded, or overworks any animal;
- (6) A person tortures, beats, mutilates, clubs, shoots or attempts to shoot with any air rifle, bow and arrow, slingshot, or firearm, or by any other means needlessly kills or injures any animal, wild or owned, within the limits of the city; except as law enforcement/animal control officers in the performance of their duties, or in the defense of one's self and/or one's property.
- (7) A person carries or transports an animal in any vehicle or conveyance in a cruel, inhumane, or unsafe manner or fails to effectively restrain such animal so as to prevent the animal from leaving or being accidentally thrown from the vehicle during normal operation of the vehicle or fails to restrain the animal so as to prevent infliction of bodily harm to passersby.
- (8) A person confines an animal in a parked or standing vehicle, a trailer, or an enclosure under such circumstances and for such a time as to endanger the animal's health, safety, or welfare. Public safety officers, including animal control officers, police officers, code compliance officers or members of the city's fire department may, after make a reasonable attempt to locate the animal's owner, remove the animal from a vehicle or enclosed space using any reasonable means, including breaking a window or lock. If professional services are required to remove the animal, the owner is responsible for the cost. Public safety officers, including animal control officers, police officers, code compliance officers or members of the city's fire department who removes an animal from a vehicle or enclosed space in accordance with this section are not liable for any resulting property damage.
- (9) A person forces, allows, or permits any animal to remain in its own filth;
- (10) A person keeps, shelters, or harbors any animal having a potentially life-threatening infestation of ticks, fleas, or other parasites, any other obvious life-threatening illness, or injury, or any other communicable illness transmissible to animal or human, without having sought and obtained proper treatment from a licensed veterinarian for such infestation or illness;
- (11) A person who knowingly owns, harbors, trains, sells, or offers for sale any animal that is to be used for the purpose of fighting; or to be trained tormented, badgered, or baited for the purpose of causing or encouraging said animal to attack human beings or animals when not provoked,
- (12) A person causes an animal to fight another animal or person;
- (13) A person fails to provide, at all times, his animal with adequate wholesome food

(21)

and potable water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering;

- (14) A person, firm or corporation shall raise or kill a dog or cat for the skin or fur;
 - (15) A person, firm or corporation mutilates any animal, whether such animal is dead or alive. Medical or veterinary medical research, medical or veterinary medical necropsy, and biology class use of animals shall not be considered mutilation;
 - (16) A person, firm or corporation attaches a collar or harness to an animal that is of an inadequate size so that it restricts the animal's growth or causes damage to the animal's skin;
 - (17) A person shall engage or allow another to engage in any sexual act with an animal;
 - (18) A person who owns or is in control of an animal permits such animal to be at large within the City of Waxahachie;
 - (19) A person breeds or causes to be bred, any animal within the public view;
 - (20) A person creates, maintains, permits or causes a public nuisance, as defined in this chapter; or
 - (21) A person owns, keeps, harbors, or possesses horses, cattle, or other livestock in any manner that is a violation of this Ordinance.
 - (22) A person who creates, maintains, permits, or causes a public nuisance, as defined in this chapter.
- (d) This section shall not be interpreted to restrict the extermination of rats, mice, insects, other vermin, or any such animal deemed a nuisance by state law, through the use of traps, poisons, or other commercially available means when used in accordance with the manufacturer's directions as long as reasonable precautions are taken to ensure that no human, pet, or wild animal, other than the targeted species, comes into contact with the traps, poisons, or other means and that such use does not violate any other section of this Ordinance.
 - (e) This section shall not be interpreted to restrict rodeos, 4H Clubs, or FFA Club activities and operations.
 - (f) This section shall not be construed to prevent public safety officer(s), including animal control officers, police officers, code compliance officers or members of the fire department from euthanizing animals when authorized to do so by any statute, ordinance, or law, or when such action is in the interest of public health and safety.

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Sec. 6-17 Inducement or Sale of Animals.

- (a) It shall be unlawful for any person to give away any live animal as a prize or as an inducement to enter any contest, game, raffle, or other competition or an inducement to enter a place of business or to offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (b) It shall be unlawful for any person to sell, exchange, trade, barter, lease, rent, or give away any animal, or offer to do the same, from:
 - (1) Any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreational area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized or
 - (2) Any property to which the public has access that does not have a valid certificate of occupancy allowing the sale of animals on the property.
- (c) This section shall not be interpreted to restrict any animal from being offered for sale at auction, provided that such sale does not otherwise violate any other section of this chapter.
- (d) It is an affirmative defense to prosecution under this section that the person or entity is a: section shall not apply to a: veterinary clinic; animal hospital; animal shelter; animal welfare, rescue or adoption agency that is a registered non-profit entity in compliance with section 501(c)(3) of the Internal Revenue Code; bona fide zoological park; circus; educational institution; museum; licensed laboratory; public owned nature center; bona fide member of an educational or scientific association or society approved by the State or City director of health; persons holding permits from an agency of the State or the United States for the care and keeping of animals for rehabilitative purposes; animal establishment in compliance with the terms of this chapter; or individual caring for animals in his private residence in compliance with the terms of this chapter.
- (e) The Animal Services Department or public safety officers are authorized to investigate alleged violations of this section and issues citations for such violations.

Sec. 6-18 Service Animals.

- (a) A food service establishment, retail food store, or other entity regulated under this chapter may not deny a service animal admittance into an area of the establishment or store or of the physical space occupied by the entity that is open to customers and is not used to prepare food if:
 - (1) The service animal is accompanied and controlled by a person with a disability; or

(21)

- (2) The service animal is in training and is accompanied and controlled by an approved trainer.
- (b) If a service animal is accompanied by a person whose disability is not readily apparent, for purposes of admittance to a food service establishment, retail food store, or physical space occupied by another entity regulated under this chapter, a staff member of the establishment, store, or entity may only inquire about:
- (1) Whether the service animal is required because the person has a disability; and
 - (2) What type of work the service animal is trained to perform.
- (c) In this section, "service animal" means a canine that is specially trained or equipped to help a person with a disability. An animal that provides only comfort or emotional support to a person is not a service animal under this section. The tasks that a service animal may perform in order to help a person with a disability must be directly related to the person's disability and may include:
- (1) Guiding a person who has a visual impairment;
 - (2) Alerting a person who has a hearing impairment or who is deaf;
 - (3) Pulling a wheelchair;
 - (4) Alerting and protecting a person who has a seizure disorder;
 - (5) Reminding a person who has a mental illness to take prescribed medication; and
 - (6) Calming a person who has post-traumatic stress disorder.

Sec. 6-19 Placement and Baiting of Animal Traps.

- (a) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any trap designed for trapping animals in any highway, alley or other public place within the corporate limits of the city unless specific permission by the Animal Services Department has been granted. However, nothing in this chapter shall prohibit a public safety officer from placing such traps on public or private property as may be necessary to capture animals running at large.
- (b) It shall be unlawful for any person to remove, alter, damage, or otherwise tamper with a trap or equipment belonging to or set out by the Animal Services Department.

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- (c) Residents of Waxahachie wishing to trap unwanted wildlife on personal private property may do so with the use of humane cage traps (these traps will NOT be provided by the City of Waxahachie). Any trapping program must have prior written approval of the land manager or owner, and notification of activities to the Animal Services Department. All removal of such animals will also not be provided by the City of Waxahachie. The resident must contact a wildlife removal company.
- (d) Any traps mentioned in this article found upon public property are hereby declared to be abandoned traps and any animal services officer is hereby authorized and directed to impound any such trap and process the same as abandoned property in accordance with the applicable provisions of this Code.
- (e) It shall be unlawful for any person to place or place and bait or to permit the placing or placing and baiting of any steel jawed trap (commonly known as a "bear trap", "wolf trap", "leg hold trap", or "coyote trap") within the corporate limits of the city.
- (f) No person shall place any substance or article that has in any manner been treated with any poisonous substance in any place accessible to human beings, birds, dogs, cats or other animals with the intent to kill or harm animals. This shall include, but is not limited to anti-freeze purposely left exposed to poison animals. This section, however, does not preclude the use of commercially sold poisons when applied in accordance with the manufacturer's directions for such use, in that person's residence, accessory structure or commercial establishment, provided that such use does not violate any other section of this chapter.

Sec. 6-20. – Animal establishments.

- (a) In addition to the other requirements of this Article, animal establishments must comply with the following minimum standards:
 - (1) Remove manure and droppings from pens, yards, cages, and other enclosures daily and handle or dispose of the excretions in such manner as to keep the premises free of any public nuisance.
 - (2) Place food in sanitary containers on sanitary surfaces.
 - (3) Remove all refuse on the premises and dispose of same by a means approved by the Animal Services Department.
 - (4) Such standards of sanitation shall be administered by the Animal Services Department.
- (b) It shall be unlawful for any animal establishment to fail or refuse to comply with any minimum standard set forth in this section.

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- (c) It shall be unlawful for an animal establishment to sell, trade, or give away a dog or cat, over three (3) months of age, unless the dog or cat has been vaccinated as required by this chapter.
- (d) It shall be unlawful for an animal establishment to give away any live animal as a prize or as an inducement to enter any contest, game, raffle, or other competition or an inducement to enter a place of business or to offer such animal as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (e) It shall be unlawful for any animal establishment to sell, exchange, trade, barter, lease, rent, or give away any animal, or offer to do the same, from:
 - (1) Any roadside, public right-of-way, parkway, median, park, playground, swimming pool, other recreational area, or commercial or retail parking lot that is generally accessible by the public, regardless of whether such access is authorized or
 - (2) Any property to which the public has access that does not have a valid certificate of occupancy allowing the sale of animals on the property.
- (f) This section shall not be interpreted to restrict any animal from being offered for sale at auction, provided that such sale does not otherwise violate any other section of this chapter.
- (g) This section shall not apply to a: veterinary clinic; animal hospital; animal shelter; animal welfare, rescue or adoption agency that is a registered non-profit entity in compliance with section 501(c)(3) of the Internal Revenue Code; bona fide zoological park; circus; educational institution; museum; licensed laboratory; public owned nature center; bona fide member of an educational or scientific association or society approved by the State or City director of health; persons holding permits from an agency of the State or the United States for the care and keeping of animals for rehabilitative purposes; animal establishment in compliance with the terms of this chapter; or individual caring for animals in his private residence in compliance with the terms of this chapter.
- (h) The Animal Services Department or public safety officers are authorized to investigate alleged violations of this section and issues citations for such violations.
- (i) The Animal Services Department shall be permitted to inspect any animal establishment and all animals and the premises where such animals are kept at any reasonable time during normal business hours to ensure compliance with all provisions of this chapter.

Sec. 6-21-6-25. – Reserved.

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ARTICLE II. - DOGS AND CATS

Sec. 6-26. – Dogs and cats running at large prohibited.

- (a) No person owning, possessing, or harboring any dog shall permit such dog to run at large within this city at any time.
- (b) It is unlawful for any person to permit any cat or dog owned, kept or harbored by any person which shall be infected with or suffering from any mange, distemper or contagious or dangerous disease to be or run at large in the city. Any cat or dog so found at large which shall be infected with or suffering from any mange, distemper, or contagious or dangerous disease shall be deemed a public nuisance and may be forthwith taken up and summarily destroyed at the expense and cost of the owner, keeper, or person harboring the cat or dog.
- (c) Any dog impounded for running at large shall be required to be re-vaccinated for rabies if the vaccine is not current within the previous twelve (12) months.
- (d) Animal control officers or other law enforcement officers shall have the power to impound animals which create an animal nuisance for the purpose of abating a nuisance and in cases where animal control officers have reason to believe an animal has been or is being cruelly treated, has rabies or exhibits other violations of law as follows:
 - (1) On public property, in all cases;
 - (2) On private property, if:
 - a. The consent of the resident or property owner is obtained,
 - b. The officer reasonably believes there is immediate and imminent danger or peril to the public if the animal in question is not impounded, or
 - c. Authorized by appropriate courts of law.
- (e) The officer has the right to pursue and apprehend animals running at large onto private property while enforcing the provisions of this chapter.
 - (1) Any animal observed by an animal control officer or peace officer to be in immediate danger, in the agent's or officer's opinion, may be removed from such situation by the quickest and most reasonable means available. It shall be the responsibility of the animal's owner to repair any damage caused by the removal of the animal from the dangerous situation by the animal control officer or peace officer.

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- (2) The animal control officer or peace officer may order the abatement of the conditions which are not in accordance with this ordinance, other applicable state or federal regulations or laws, or which otherwise constitute a nuisance. Failure to comply with the written notice constitutes grounds for the city to obtain any relief available to by law, including, but not limited to relief by injunction. Additionally, failure to comply with the written notice may subject the violator to administrative proceedings and criminal charges.

Sec. 6-27. - Impounding of dogs and cats running at large.

- (a) It is the duty of the enforcement agent to capture and impound such animals as are running at large or which are required to be impounded pursuant to other laws or ordinances or to protect public safety. Any officer or citizen of the city is authorized to take up and deliver in a humane manner to the Animal Services Department any animal that may be found running at large in the city.
- (b) The animal control officer/peace officer shall impound and quarantine all dogs, cats and other animals exposed to, suspected to be exposed to, or infected with rabies, whether the dog, cat or other animal to be impounded is at large, on a leash, or confined to its owner's premises. Any animal which a licensed veterinarian suspects of having rabies shall be humanely euthanized. Any animal exposed to a rabid animal shall be humanely euthanized or quarantined at the owner's expense for a period mandated by the Texas Department of State Health Services Zoonosis Control Division, not less than ten (10) days from the date of last known exposure.
- (c) The animal control officer/peace officer shall impound an animal at the request of a peace officer when the owner of the animal has been arrested, hospitalized, is missing, or has died, and there is no person present, eighteen (18) years of age or older, who will assume the legal responsibility of providing food, water and shelter for such animal.
- (d) Identification of impounded animals:
 - (1) The Animal Services Department, upon receiving an animal for impoundment, shall make a complete registry, including the species, breed, color and sex of such animal, whether it has traceable identification, and the time and place of taking custody. If the animal has traceable identification, he shall enter the name and address of the veterinary clinic, year, the number of the registration tag, and any other pertinent information. When kennel space allows, animals with traceable identification shall be kept separate from animals that do not have identification. All animals impounded shall be scanned with a microchip reader.
- (e) If, by registration tag, the owner of an impounded animal can be identified, the city enforcement agent shall, as soon as possible, notify the owner by telephone or mail,

(21)

however it is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.

- (f) Impounded animals with no means of traceable identification shall be kept for not less than three (3) days, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by this Ordinance. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
- (g) Animals with any type of traceable identification shall be kept for not less than ten (10) days, or not less than three (3) days from the time the owner is notified of their animal being impounded, whichever is the shorter time period, unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by the Ordinance. If an animal has a tag that does not list the owner's phone number or address, and the person or business that is in possession of the owner's contact information will not release it to the animal control officer/peace officer, then for the purposes of this section it shall be the responsibility of that person or business to notify the owner of the animal being impounded, and the animal shall be held for three (3) days after the animal control officer/peace officer contacts the person or business in possession of the owner's contact information. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.
- (h) Retention of impounded animals:
 - (1) An animal impounded at the request of a peace officer as required by this Ordinance shall be kept for not less than ten (10) days unless earlier reclaimed by the owner under acceptable conditions or earlier euthanized as allowed by the Ordinance. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim such pets.
 - (2) An impoundment period is not required for an animal voluntarily released to the animal control officer/peace officer by its owner.
- (i) Redemption of impounded animals:
 - (1) Any owner of an animal that has been impounded under this chapter who wishes to have it returned to him shall personally visit the animal shelter where it is impounded. Animal control officer/peace officer shall return the animal if the owner can provide sufficient proof of being the animal's owner and if such release will not impair the safety of the public or the animal. The owner of the animal must pay any and all fees set forth herein and must agree to abide by all of the requirements of this Chapter before the animal is returned. It is the responsibility of the owner to visit the shelter before the expiration of the designated holding period to reclaim lost pets.

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- (2) If an animal that requires a permit or registration is impounded by the animal control officer/peace officer for violating this chapter and the owner cannot prove that he is in possession of all required permit(s) or registration(s), the owner must meet all requirements of the required permit(s) or registration(s) and must purchase said permit(s) or registration(s) before the animal may be released from the animal shelter.
- (3) If an animal that requires a rabies vaccination is impounded by the animal control officer/peace officer for violating this chapter and the owner cannot prove that the animal has a current rabies vaccination, a citation for failing to vaccinate will be issued. The owner shall then have five (5) days to provide proof of obtaining a current rabies vaccination to the animal control officer or else he shall be cited again for violation of this Ordinance. Each subsequent day that passes after the five (5) day period shall be considered a separate offense. For the purposes of this section, a rabies tag alone is not sufficient proof of an animal's current rabies vaccination.

Sec. 6-28. - Dogs defecating on public and private property.

- (a) An owner, harborer, or other person having care, custody, or control of a dog commits an offense if he knowingly permits, or by insufficient control allows, the dog to defecate in the city on private property or on property located in a public place.
- (b) An owner, harborer, or other person having care, custody, or control of a dog commits an offense if he:
 - (1) Knowingly permits the dog to enter or be present on private property or on property located in a public place; and
 - (2) Fails to have in his possession materials or implements that, either alone or in combination with each other, can be used to immediately and in a sanitary and lawful manner both remove and dispose of any excreta the dog may deposit on the property, and/or fails to remove and dispose of, all excreta deposited on the property by the dog.
- (c) It is a defense to prosecution under subsection (a) that the owner, harborer, or other person having care, custody, or control of the dog immediately and in a sanitary and lawful manner removed and disposed of, or caused the removal and disposal of, all excreta deposited on the property by the dog.
- (d) It is a defense to prosecution under subsection (a) or (b) that:
 - (1) The property was owned, leased, or controlled by the owner, harborer, or person having care, custody, or control of the dog;

(2)

- (2) The owner or person in control of the property had given prior consent for the dog to defecate on the property; or
- (3) The dog was being used in official law enforcement activities.
- (e) This section does not apply to a dog that is specially trained to assist a person with a disability and that was in the care, custody, or control of that disabled person at the time it defecated or was otherwise present on private property or on property located in a public place.

Sec. 6-29. – Registration - Required for dogs.

Every person owning, keeping, harboring or having custody of a dog over the age of four (4) months within the City of Waxahachie shall register the dog. Police dogs shall be exempt from the identification/registration fee; however they must be in compliance with all other provisions of this chapter. This section does not apply to animals temporarily within the city limits for a period not to exceed fourteen (14) days.

- (a) All dogs four (4) months of age or older must wear, or have implanted, traceable identification.
- (b) Any owner who fails to register a dog shall be deemed guilty of a misdemeanor.
- (c) No person may use any other identifying tags or microchips on an animal other than for which it was issued to.
- (d) The initial registration/microchipping of the animal is valid for the life of the animal. However, owners shall submit copies of annual rabies vaccinations to Animal Services.
- (e) Rabies vaccination certificates will be valid for one year from the date of vaccination as determined by the veterinarian that provided the vaccination. In order to be registered with the city each animal to be registered must have a valid rabies certificate

Sec. 6-30. - Reserved.

Sec. 6-31. - Same—Vaccination certificate.

No registration shall be issued under the provisions of this article unless a current certificate of vaccination for rabies, signed by a licensed veterinarian certifying that the dog to be licensed has been immunized, has been presented to the Animal Services Department.

Sec. 6-32. - Reserved.

Sec. 6-33. - Same—Microchip.

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Upon registration, the Animal Services Department shall implant a microchip in the animal that will identify the owner of the animal. It shall be unlawful for anyone, other than the owner, to remove such microchip from the dog for which issued or for anyone to implant the microchip to a dog for which such microchip was not issued.

Sec. 6-34. - Reserved.

Sec. 6-35. - Authority.

It shall be the duty of the animal control officers to seize and impound, subject to the provisions of this article, all dogs found in violation of the provisions of this article within this city, whether such dog shall be in the immediate presence of its owner or custodian or otherwise.

Sec. 6-36. - Pound.

The Animal Services Department shall provide and operate a shelter in which shall be impounded all dogs that may be found within this city contrary to the provisions of this article.

Sec. 6-37. - Right of entry.

(a) Animal Control officers/ peace officers are hereby authorized to enter upon any unfenced lot, tract, or parcel of land for the purpose of seizing and impounding any dog found thereon in violation of this article.

Sec. 6-38. - Registry.

The Animal Services Department shall, upon receiving any dog, make a complete registry, entering the breed, color, and sex of such dog, and the time of taking into custody, and if licensed he shall enter the name and address of the owner and the number of the license tag.

Sec. 6-39. - Disposition of unredeemed dog or cat.

Any dog or domesticated cat not redeemed within the applicable redemption period following impoundment may be disposed of by sale or destruction.

Sec. 6-40. - Dog and cat sterilization.

All adopted dogs and cats are required to be spayed or neutered prior to being adopted.

Sec. 6-41. - Redemption by person other than owner.

If the owner of any dog impounded under this article shall fail to redeem his dog within the time allowed for redemption, any other person may, upon complying with all provisions of this article, redeem such dog from the pound and be the lawful owner of such dog after the thirty-day redemption period pursuant to section 6-42 of this Code.

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Sec. 6-42. - Redemption after sale.

The owner of any impounded dog may, within thirty (30) days after such dog is sold, redeem the same from such purchaser by paying the purchaser the amount of the purchase price paid by him, and in addition thereto, the licensing fee and vaccination charge, if any were incurred, and in addition thereto the sum of one dollar (\$1.00) per day from the date of sale to the date of redemption. Upon the expiration of (30) days from the date the dog is sold the right of the owner to redeem such dog shall expire.

Sec. 6-43. - Ownership of multiple dogs and cats.

- (a) No person who resides on property less than one acre, shall keep or harbor more than four (4) dogs or cats, in any combination, inside/outside the residence; with exception to grooming parlors where no animals are kept overnight and veterinary clinics. Dogs or cats under three (3) months of age shall not be counted for the purpose of this section. Any person, firm, or corporation residing on property less than one acre that wants to keep more than four (4) dogs or cats and who does not possess a kennel permit, may procure a multiple pet ownership permit from the city. The permit, once issued, shall be a defense to the terms of this section. Such permit shall be issued through the Animal Services Department for an annual fee of fifty dollars (\$50.00) and shall be valid until January 1st and renewed after inspection by the Animal Services Department each and every January 1st thereafter. Any person, firm, or corporation residing on property more than one acre that wants to keep more than seven (7) dogs or cats must apply for a kennel permit, see section 6-45.
- (b) Such permit contemplated by this section may be revoked by the Animal Services Department if:
 - (1) The facilities, upon inspection, show that they are inadequate for the number of animals sought to be kept; or
 - a. Facilities shall be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. Size of the facility shall be in proportion to the size of each individual animal's height and weight;
 - b. Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration;
 - c. The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects, and flies that could be harmful to the animal's health and/or the health of the general public;

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- d. The premises must provide adequate protection from the common elements, i.e., rain, heat, cold.
- (2) The animals kept are causing a stench odor which is offensive to a person of ordinary sensibilities;
- (3) The animals are maintained in a manner which is dangerous to the health of the animals themselves or adjacent animals;
- (4) The animals are causing noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent, or neighboring premises;
- (5) Citations have been issued to permit holder for any violation of this section on two (2) separate occasions; or animals covered by the permit have been impounded on two (2) separate occasions.

Sec 6-44 Feral cat management.

- (a) The Waxahachie Animal Services is responsible for maintaining the registry of approved registered feral cat colony locations. Waxahachie Animal Services will assist registered caregivers in the management of registered feral colonies.
- (b) A feral cat colony can be registered when the Waxahachie Animal Services who determines that a volunteer caregiver(s) can meet the following minimum requirements:
 - (1) Regular feeding will be maintained throughout the year;
 - (2) Adult cats and kittens eight weeks of age will be neutered and vaccinated;
 - (3) Every attempt will be made to remove kittens from the colony before eight weeks of age for domestication and placement;
 - (4) Stray cats will be released or placed into the custody of the Waxahachie Animal services;
 - (5) Sick or injured cats will be removed from the colony for immediate veterinary care or humane euthanasia;
 - (6) Cats will be earmarked and micro chipped for recognition as members of a registered feral cat colony;
 - (7) Responsibility for managed feral cat colonies can be transferred, by written document, to another feral cat caregiver with the Waxahachie Animal Services approval only;

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- (8) Location of a feral cat colony requires the approval of property owner or owners and the Waxahachie Animal Services;
- (9) Relocation of a feral cat colony requires the approval of property owners and the Waxahachie Animal Services;
- (10) Cat caretaker assumes all responsibility of humane trapping, maintenance, and management of their approved registered colony;
- (11) Records of sterilization, vaccination, micro chipping, and animal identification will be provided to Waxahachie Animal Services upon request.
- (12) The Waxahachie Animal Services is authorized to issue citations, revoke registered cat colony permission, or issue citations to a feral cat caregivers or obtain a search and seizure warrant if there is probable cause to believe any requirements of this section are violated.

Sec. 6-45. - Kennels.

- (a) A kennel shall not be allowed until a kennel permit is issued by the city. The Animal Services Department shall determine, after inspection, whether or not such permit shall be issued. Grooming parlors where no animals are to be kept overnight and veterinary clinics shall not be considered kennels. No permit shall be issued for a kennel to operate within two hundred (200) feet of any residential dwelling and the following must be met:
 - (1) Must have a minimum of at least two (2) acres;
 - (2) All animals must have current vaccinations;
 - (3) Facilities shall be of sufficient size as to allow animals to move about freely. This shall apply to each animal kept. Size of the facility shall be in proportion to the size of each individual animal's height and weight;
 - (4) Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration;
 - (5) The premises shall be kept in a sanitary condition and reasonably free of animal waste, parasites, insects, and flies that could be harmful to the animal's health and/or the health of the general public;
 - (6) The premises must provide adequate protection from the common elements, i.e., rain, heat, cold.
- (b) Such permits shall be valid until July 1st and renewed each and every July 1st thereafter. The permit fee shall be fifty dollars (\$50.00).

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- (c) Revocation or suspension of permit. Any kennel permitted under this chapter found to be in violation of any zoning law, health law, or any other applicable law of the City of Waxahachie or of the State of Texas, or that is maintained in such a manner as to be detrimental to the health, safety, or peace of mind of persons residing in the immediate vicinity, may have its kennel permit suspended or revoked without prior notice by the Animal Services Department.

Secs. 6-46—6-50. - Reserved.

ARTICLE III. - LIVESTOCK, FOWL, RABBITS, REPTILES

Sec. 6-51. - Running at large.

- (a) The running at large within the city of cattle, horses, mules, jacks, jennets, sheep, goats, or other bovine, equine, caprine, ovine, porcine animals, ostriches, emus, or fowl is hereby prohibited and herein declared to be a nuisance; and anyone owning, controlling or having responsibility for the control of any of the above-named animals or fowl who knowingly permits such animals or fowl to run at large within the city shall be guilty of a misdemeanor. Any such animal found running at large within the corporate limits of the city may be impounded by the Animal Services Department or other law enforcement entities.
- (b) Disposal.
 - (1) In the event that ownership of the impounded livestock cannot be determined, and after being held for a period of three (3) days, the livestock may be impounded by the county sheriff's department. At such time the livestock shall become the responsibility of the county sheriff's department. Should the owner be located within the three-day period, the owner shall pay all required fees adopted by the city. The city, by this provision, intends to comply with any applicable provisions of state law relative to the impoundment of strays.
 - (2) If impounded livestock are sold at public auction by the county sheriff's department, the county holding facility will apply such amount of the proceeds as necessary to satisfy the fees and costs incurred because of animal impoundment and auction, any fees and costs incurred by the city for impounding the livestock, restitution for any damage sustained by a property owner for said livestock having been at large, upon submission of a notarized affidavit and satisfactory proof of such damage. Upon payment of all fees, costs, and restitution, any remaining monies shall be returned to the owner of the livestock, upon submission of a sworn, notarized affidavit that the applicant was in fact the owner of the livestock immediately prior to the sale.

Sec. 6-52. - Fowl and rabbits.

Any person raising or keeping fowl or rabbits in a residentially zoned area as defined by this Code must maintain them in a sanitary condition so as to not become offensive and/or cause a nuisance to the residents adjacent thereto; and are limited to:

- (a) Generally. The keeping of fowl such as roosters, ducks, turkeys, geese, peacocks, guineas, or other such loud fowl within the city limits, in any pen, coop or enclosure that is within one hundred fifty (150) feet of any residence (other than the owner's), business or school shall be prohibited.
- (b) Chickens. No person shall keep more than six (6) hens in an area zoned residential within the city, and shall be no closer than twenty five (25) feet to the nearest inhabited dwelling, other than that of the owner.
- (c) Pigeons. Pigeons shall be kept in an enclosure or coop that is located no closer than thirty (30) feet from any residential dwelling, other than that of the owner and no closer than fifty (50) feet from any swimming pool on an adjoining or adjacent lot.
 - (1) Supervised exercise. When an owner allows his pigeons to exercise outside of their enclosure or coop, he shall ensure that his pigeons do not roost on or about a neighbor's dwelling nor interfere with a neighbor's enjoyment of his property.
- (d) Rabbits and guinea pigs. Rabbits and guinea pigs shall be kept in a secure pen or enclosure that is at least thirty (30) feet from an inhabited dwelling, other than that of the owner. Rabbit and guinea pigs enclosures shall be of a design that prohibits waste material dropping to the ground and such construction and strength to keep such animal from running at large. It shall be unlawful for any person to knowingly be in possession of more than twelve (12) rabbits or guinea pigs, or combination of each, on any premises within the city.

Sec. 6-53. - Livestock.

- (a) Any person raising or keeping livestock in a residentially zoned area as defined by this Code is limited to:
 - (1) One livestock per first one-half (1/2) acre and must keep the animal and the enclosure, shed, or pen no closer than twenty-five (25) feet from adjacent homes, excluding the home of the owner or keeper of the livestock.
 - (2) Two (2) livestock per first acre and must keep the animals and the enclosure, shed, or pen no closer than twenty-five (25) feet from adjacent homes, excluding the home of the owner or keeper of the livestock.

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- (3) Parcels of two (2) or more acres may keep livestock so long as the livestock and the enclosures or pens are no closer than twenty-five (25) feet from adjacent homes, excluding the home of the owner or keeper of the livestock.
- (b) All persons having horses, or other livestock (as described in this section 6-1 of this code) must obtain a city permit by July 1st of each calendar year, which permits the keeping and maintaining of domestic livestock. Such permit shall grant the animal control officer permission to inspect at any reasonable time during the day the lot or parcel of land on which the horses and other livestock will be contained. Such permit may be revoked or withheld by the animal control officer if:
- (1) The facilities (both land and structures), upon inspection, show that they are inadequate for the number of animals sought to be kept. Such facilities must meet but not be limited to the following requirements:
 - a. Adequate food and water must be provided so that each and all animals kept shall be maintained in good health and free of malnutrition and/or dehydration;
 - b. The premises shall be kept in sanitary condition and reasonably free of animal waste, parasites, insects, and flies that could be harmful to the animals health and/or the health of the general public;
 - c. The premises must provide adequate protection from the common elements, i.e., rain, heat, cold.
 - (2) The animals kept were causing a stench odor which is offensive to a person of ordinary sensibilities;
 - (3) The animals are maintained in a manner which is dangerous to the health of the animals themselves or adjacent animals;
 - (4) The animals are causing noise which is offensive or disturbing to a person of ordinary sensibilities on adjoining, adjacent, or neighboring premises.
- (c) A property owner shall be permitted to maintain a horse or other livestock upon his or her property only if he or she is in the possession of a valid permit issued by the city. Revocation of a permit by the animal control officer will require removal of the animal(s) from the property owner's lot within twenty-four (24) hours.

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- (d) In the event that the animal control officer shall identify a violation of this section, the officer may cite the property owner for a misdemeanor violation rather than revoke the permit. At the time that the citation is issued, the animal control officer shall notify the property owner with a list in writing of the violations to be corrected. The animal control officer will re-inspect after ten (10) days to ensure the corrective action has been taken to resolve the violation. At such point in time the animal control officer determines the issuance of a citation has not produced corrective action to eliminate the violation(s) of this section, the animal control officer may revoke the permit.
- (e) If the permit for keeping and maintaining horses and other livestock has been revoked, the property owner must reapply for new permit by making application with the director of the environmental health department after meeting the criteria of this section. The animal control officer will reissue the permit providing that the previously identified violations have been fully corrected.
- (f) The authority of the animal control officer to allow re-issuance of a previously revoked permit shall be subject to the restriction that if any property owner's permit to maintain domestic livestock has been revoked three (3) times previously, it may not be reissued irrespective of subsequent corrective action taken by the property owner.

Sec. 6-54. - Nonpoisonous Reptiles.

- (a) Snakes. Nonpoisonous snakes that do not exceed six (6) feet in length at maturity may be kept in the city.
- (b) Lizards. Adult lizards that do not exceed three (3) feet in length at maturity may be kept in the city.

Secs. 6-55—6-60. - Reserved.

ARTICLE IV. - DANGEROUS ANIMALS

DIVISION 1. - DANGEROUS ANIMALS OTHER THAN A DOG

Sec. 6-61. - Definitions.

Dangerous animal: An animal, other than a dog, that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own;

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- (2) Commits unprovoked acts in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to that person; or
- (3) Has been declared dangerous by the Animal Services Department or municipal court pursuant to this Article.

Secure enclosure: A fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a dangerous animal in conjunction with other measures which may be taken by the owner. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal(s) from escaping from the enclosure. The enclosure shall be posted with signs on all sides in four-inch letters warning of the presence of a dangerous animal and shall include a symbol of a dangerous animal understandable by young children.

Sec. 6-62. - Finding of an animal, other than a dog, as "dangerous."

- (a) A person learns that the person is the owner of a dangerous animal when:
 - (1) The owner knows of an attack as described in section 6-61, definition of "dangerous animal"; or
 - (2) The owner is informed by the animal services department that the animal is a dangerous animal.
- (c) If a person reports an incident described in section 6-61, definition of "dangerous animal," the animal services department may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal services department determines that the animal is a dangerous animal, it shall notify the owner of that fact.
- (d) An owner, not later than the 15th day after the date the owner is notified that an animal owned by the owner is a dangerous animal, may appeal the determination of the animal services department to municipal court. An owner may appeal the decision of municipal court in the same manner as other appeals from municipal court.
- (e) An owner may appeal the decision of the municipal court to a court of competent jurisdiction in the same manner as state law provides for other appeals of similar cases from municipal court.

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Sec. 6-62.1. - Requirements for owner of dangerous animal other than a dog.

Not later than the 30th day after a person learns that the person is the owner of a dangerous animal, the person shall:

- (1) Register the dangerous animal with the city animal [care and] control authority;
- (2) Restrain the dangerous animal at all times on a leash in the immediate control of a person or in a secure enclosure as described in section 6-61, "secure enclosure";
- (3) Further secure the dangerous animal with a muzzle in a manner that will not cause injury to the animal nor interfere with its vision or respiration but shall prevent it from biting any person or animal when the dangerous animal is taken off the property of the owner for any reason;
- (4) Obtain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous animal causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the city animal [care and] control authority;
- (5) Provide the dangerous animal with a fluorescent yellow collar visible at fifty (50) feet in normal day light so that the animal can be identified;
- (6) Spay or neuter the dangerous animal;
- (7) Microchip the dangerous animal for its life with a national registry, and present proof to the Animal Services Department. The owner of the dangerous animal shall microchip the animal by implanting a microchip identification device on the animal within seven (7) calendar days after being notified by the Animal Services Department or by the municipal court that such animal is dangerous. The cost of the service shall be at the owner's expense;
- (8) Comply with any other restriction or requirement of the Animal Services Department, the municipal court, or state court.
- (9) Notwithstanding the above, if the Animal Services Department or municipal court finds that the animal made an unprovoked attacked on another animal that caused bodily injury to the other animal and occurred in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own , then the Animal Services Department or municipal court may impose one or more of the requirements above.

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Sec. 6-62.2. - Failure to comply with requirements.

If the owner of an animal determined to be dangerous under this article fails or refuses to comply with all the requirements specified in this article, the animal shall be seized by the Animal Services Department and euthanized by the Animal Services Department or its authorized agent or a licensed veterinarian.

Sec. 6-63. - Registration of a dangerous animal other than a dog.

- (a) The city animal [care and] control authority shall annually register a dangerous animal if the owner presents proof of:
 - (1) Liability insurance or financial responsibility as required in section 6-62.1;
 - (2) Current rabies vaccination of the dangerous animal if such vaccination is available for the species;
 - (3) The secure enclosure in which the animal will be kept; and
 - (4) Payment of an annual registration fee of fifty dollars (\$50.00) to the city animal [care and] control division.
- (b) The animal [care and] control authority shall provide to the owner registering a dangerous animal a registration tag. The owner must place and maintain the tag on the animal's collar.
- (c) The owner of a dangerous animal shall notify the animal [care and] control authority within twenty-four (24) hours if the dangerous animal is at large, unconfined, has attacked a human being or another animal, has died, or has been sold or given away. If the animal has been sold or given away, the former owner shall provide the animal [care and] control office with the name, address, and telephone number of the new owner. If the new owner's address is in the city or if the animal is kept in the city, the animal [care and] control authority shall notify the new owner by certified mail, return receipt requested, or in person that the animal has been determined to be a dangerous animal and provide the new owner a copy of the requirements for a dangerous animal. The new owner must be given notice to comply with the requirements for owners of dangerous animals, if the animal is physically located for any time within the city. It shall be unlawful for new owners to fail to comply with any requirement of sections 6-62.1 and 6-63. The same reporting requirements are imposed on any and all subsequent owners of the dangerous animal.
- (d) If the owner removes the dangerous animal from the city limits, the owner not later than the fourteenth day after the move, shall provide the Animal Services Department with the physical address and telephone number where the animal will

(21)

be kept, and the name of any person who will be caring for the if the owner will not be caring for the animal. The Animal Services Department shall notify the animal control authority in the area where the animal will be kept of the classification of the animal as dangerous.

- (e) If the owner sells the dangerous dog, the owner not less than the fourteenth day after the sale, shall provide the Animal Services Department with the physical address and telephone number where the dog will kept. The owner shall also notify the new owner or person who has care and control of the dog that they are keeping or owning a dog that has been declared dangerous. On presentation by the new owner of the dangerous dog's prior registration tag and payment of a fee of twenty-five dollars (\$25.00), the Animal Services Department shall issue a new registration tag to be placed on the dangerous dog's collar.

Sec. 6-64. - Attack by dangerous animal other than a dog.

- (a) A person commits an offense if the person is the owner of a dangerous animal other than a dog and the animal makes an unprovoked attack on a person outside the animal's enclosure and causes bodily damage to the person.
- (b) An offense under this section is a Class C misdemeanor. An attack that causes the death of or serious bodily injury to, or death of a person, in which event the offense is a Class A misdemeanor.
- (c) If a person is found guilty of an offense under this section, the court may order the dangerous animal destroyed by the Animal Services Department or licensed veterinarian.
- (d) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed five thousand dollars (\$5,000.00). The City may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this section shall be retained by the City.

Sec. 6-65 - Unlawful possession of a dangerous animal.

It is hereby declared to be unlawful for any person to harbor, keep, or maintain a dangerous animal other than a dog in the city unless the owner complies with the requirements of this article.

Sec. 6-66. - Violations.

- (a) A person who owns or keeps custody or control of a dangerous animal commits an offense if the person fails to comply with section 6-62.1.
- (b) Violation of any section under this division is punishable by a fine not to exceed two thousand dollars (\$2,000.00).

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Sec. 6-67. - Defense.

It is a defense to prosecution under section 6-64 or section 6-65 that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or person employed by the state or a political subdivision of the state to deal with stray animals, and that the person has temporary ownership, custody or control of the animal; provided, however, that for any person to claim under this section, that person must be acting within the course and scope of his or her official duties as regards to the dangerous animal.

DIVISION 2. - DANGEROUS DOGS

Sec. 6-67. - Definitions.

Dangerous dog: A dog that:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own;
- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person; or
- (3) Has been declared dangerous by the Animal Services Department or municipal court pursuant to this Article.

Secure enclosure: A fence or structure of at least six (6) feet in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a dangerous animal in conjunction with other measures which may be taken by the owner. Such enclosure shall be securely enclosed and locked and designed with secure sides, top and bottom and shall be designed to prevent the animal(s) from escaping from the enclosure. The enclosure shall be posted with signs on all sides in four-inch letters warning of the presence of a dangerous animal and shall include a symbol of a dangerous animal understandable by young children.

Sec. 6-67.1. - Dangerous dog incident.

A dangerous dog incident means an incident in which the dog:

- (1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog is being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

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- (2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Sec. 6-67.2. - Reporting of incident.

- (a) A person may report an incident described in section 6-67.1 of the City Code to the Animal Services Department.
- (b) The Animal Services Department shall provide a sworn report describing the dangerous dog incident to the Animal Services Department Commander.
- (c) The Animal Services Department Commander, or their designee, shall evaluate the case and determine whether to file a dangerous dog incident report with the municipal court (court). If such a report is filed, the court shall order the Animal Services Department –to seize the dog and the court shall issue a warrant authorizing the seizure. The Animal Services Department shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions until the court determines one of the following:
 - (1) That the dog is not a dangerous dog pursuant to section 6-67.4 of the Code;
 - (2) That the dog is a dangerous dog and the court or Animal Services Department finds the owner has complied with the ownership of a dangerous dog pursuant to section 6-67.6; or
 - (3) That the dog should be humanely destroyed or is deceased.
- (d) The Animal Services Department shall furnish written notice to the owner of the dog identified in the report to inform the owner that a dangerous dog report has been filed with the court. Notice shall be by hand delivery by a certified peace officer to the owner of the dog. If the owner cannot be located, notice shall be delivered to any adult at the dog owner's last known physical address or to any adult at the residence where the dog is believed to be kept, if at a location different than the owner's physical address. The notice shall also include a statement that the owner will be notified by the court of the date and time for a hearing pursuant to section 6-67.4.
- (e) If the court determines the dog to be a dangerous dog, the owner shall pay all costs and or fees assessed by the municipality related to the seizure and impoundment of the dog, including, but not limited to, boarding fees, microchip procedure, city license and rabies vaccination, and the cost of euthanasia of the dog if ordered by the court.

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Sec. 6-67.3. - Dangerous dog investigation.

The Animal Services Department Commander, or their designees, may investigate all reports of dangerous dog incidents. The Animal Services Department may accept sworn statements from all victims and witnesses to the attack.

Sec. 6-67.4. - Failure to surrender dog.

It shall be a separate violation of this division for any person to refuse or fail to surrender a dog subject to this article, or harbor, hide or secret, transport or secure the transport of a dog subject to this article, for the purpose of preventing its impoundment.

Sec. 6-67.5. - Hearing for dangerous dog determination.

- (a) The court, on receiving a report of an incident under section 6-67.1 shall set a time for a hearing to determine whether the dog is a dangerous dog. The hearing must be held not later than the tenth day after the date on which the dog is seized or delivered.
- (b) The court shall give written notice of the time and place of the hearing to:
 - (1) The owner of the dog or the person from whom the dog was seized;
 - (2) The person who made the complaint; and
 - (3) Any witnesses.
- (c) Any interested party, including the city attorney, is entitled to present evidence at the hearing.
- (d) The court shall issue its ruling within twenty-four (24) hours from the conclusion of the hearing.
- (e) Appeals from convictions under this statute shall be handled like other appeals from convictions in municipal court. During the appeal period, the dog shall remain in the custody, care and control of the Animal Services Department. If the appeal is ultimately unsuccessful, the owner of the dog shall be responsible for the dog's impoundment fees during the period the case was being appealed.

Sec. 6-67.6. - Requirements for owners of a dangerous dog.

- (a) In addition to the requirements under state law applicable to an owner of a dangerous dog, and not later than the fifteen day the person learns that they are the owner of a dangerous dog shall:

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- (1) Register the dangerous dog with the Animal Services Department and pay an annual registration fee of fifty dollars (\$50.00) to the Animal Services Department
- (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure as defined in section 6-67 with the requirement that the enclosure be posted with signs on all sides in four-inch letters warning of the presence of dangerous dogs and shall include a symbol of dangerous dogs understandable by young children;
- (3) Obtain and maintain liability insurance coverage or show financial responsibility in an amount of at least one hundred thousand dollars (\$100,000.00) to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the Animal Services Department.
- (4) Secure the dangerous dog with a muzzle in a manner that will not cause injury to the dog nor interfere with its vision or respiration but shall prevent it from biting any person or animal when the dangerous dog is taken off the property of the owner for any reason;
- (5) Provide the dangerous dog with a fluorescent yellow collar to be worn by the dog at all times and to be visible at fifty (50) feet in normal day light so that the dog can be identified;
- (6) Spay or neuter the dangerous dog;
- (7) Have a veterinarian shall implant a microchip identification device on the dog immediately after the court has ruled in a hearing pursuant to section 6-67.4 that such dog is dangerous. The dog's microchip shall be registered with a national registry. The cost of the service shall be at the owner's expense; and
- (8) Comply with any other restriction or requirement of the Animal Services Department or of the municipal court.
- (9) Notwithstanding the above, if the Animal Services Department or the municipal court finds that the dog made an unprovoked attack on another animal that caused bodily injury to the other animal and occurred in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own, then the Animal Services Department or the municipal court may impose one or more of the requirements above.

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- (b) The court, after determining that the dog is a dangerous dog, shall order the Animal Services Department to continue to impound the dangerous dog in secure and humane conditions until such time as:
 - (1) The court orders disposition of the dog and the dog is returned to the owner,
 - (2) The court orders disposition of the dog and the dog is thereby humanely destroyed, or
 - (3) The dog is deceased.
- (c) The court shall order the Animal Services Department to humanely destroy the dog if the court determines after notice and hearing that the owner has not complied with subsection (a). The court shall order the authority to return the dog to the owner if the owner has fully complied with subsection (a) either after a hearing or without a hearing based on the recommendation of the Animal Services Department that the owner has complied with subsection (a).
- (d) The owner may appeal the decision of the court by following the appropriate procedures for appeal of a decision of municipal court. During the appeal period, the dog shall remain in the custody, care and control of the Animal Services Department. If the appeal is ultimately unsuccessful, the owner of the dog shall be responsible for the dog's impoundment fees during the period the case was being appealed.
- (e) The Animal Services Department may, at their option, request the owner of a dangerous dog to show proof, on a quarterly basis, of compliance with this division. If the Animal Services Department determines that the owner of a dangerous dog has failed to comply with any requirement listed in subsection (a) above, the Animal Services Department shall issue notice of noncompliance to the owner of the dangerous dog and said owner shall deliver the dog immediately to the Animal Services Department.
- (f) If the Animal Services Department is not in receipt of the dog within forty-eight (48) hours after delivery of the notice, then the court shall order the Animal Services Department or his designee to seize the dog and the court shall issue a warrant authorizing the seizure. The Animal Services Department shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions. After the expiration of three (3) days, if the owner of the dangerous dog has not sufficiently presented proof to the Animal Services Department that he or she is in compliance with subsection (a), the Animal Services Department shall refer the case to the municipal court for notice and hearing.

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- (g) Upon proof to the court of the dangerous dog owner's noncompliance, the court shall enter, no later than the day of the hearing, a final order for the humane destruction of the dog.
- (h) The owner shall pay all costs and or fees assessed by the municipality related to the seizure and impoundment of the dog, including, but not limited to, boarding fees, microchip procedure, city license and rabies vaccination, and the cost of euthanasia of the dog if ordered by the court.
- (i) In addition to criminal prosecution, a person who commits an offense under this section is liable for a civil penalty not to exceed five thousand dollars (\$5,000.00). The City may file suit in a court of competent jurisdiction to collect the penalty. Penalties collected under this section shall be retained by the City.

Sec. 6-67.7. - Dangerous dog registration.

- (a) The city animal [care and] control authority shall annually register a dangerous animal if the owner presents proof of:
 - (1) Liability insurance or financial responsibility as required in section 6-67.6;
 - (2) Current rabies vaccination of the dangerous animal if such vaccination is available for the species;
 - (3) The secure enclosure in which the animal will be kept; and
 - (4) Payment of an annual registration fee of fifty dollars (\$50.00) to the city animal [care and] control division.
- (b) The animal [care and] control authority shall provide to the owner registering a dangerous animal a registration tag. The owner must place and maintain the tag on the animal's collar.
- (c) The owner of a dangerous animal shall notify the animal [care and] control authority within twenty-four (24) hours if the dangerous animal is at large, unconfined, has attacked a human being or another animal, has died, or has been sold or given away. If the animal has been sold or given away, the former owner shall provide the animal [care and] control office with the name, address, and telephone number of the new owner. If the new owner's address is in the city or if the animal is kept in the city, the animal [care and] control authority shall notify the new owner by certified mail, return receipt requested, or in person that the animal has been determined to be a dangerous animal and provide the new owner a copy of the requirements for a dangerous dog. The new owner must be given notice to comply with the requirements for owners of dangerous animals, if the animal is physically located for any time within the city. It shall be

(21)

unlawful for new owners to fail to comply with any requirement of sections 6-67.7 and 6-67.8 The same reporting requirements are imposed on any and all subsequent owners of the dangerous animal.

- (d) If the owner removes the dangerous dog from the city limits, the owner not later than the fourteenth day after the move, shall provide the Animal Services Department with the physical address and telephone number where the dog will be kept, and the name of any person who will be caring for the dog if the owner will not be caring for the dog. The Animal Services Department shall notify the dog control authority in the area where the dog will be kept of the classification of the dog as dangerous.
- (e) If the owner sells the dangerous dog, the owner not less than the fourteenth day after the sale, shall provide the Animal Services Department with the physical address and telephone number where the dog will be kept. The owner shall also notify the new owner or person who has care and control of the dog that they are keeping or owning a dog that has been declared dangerous. On presentation by the new owner of the dangerous dog's prior registration tag and payment of a fee of twenty-five dollars (\$25.00), the Animal Services Department shall issue a new registration tag to be placed on the dangerous dog's collar.
- (f) The Animal Services Department shall publish a list including identifying information on all dogs determined dangerous in the city. The list must include the dangerous dog's address, description, pictures, microchip number, the owner's name, and any other pertinent information. This list must be publicly available at the Animal Services Department and on the animal services website.

Sec. 6-67.8. - Unlawful possession of a dangerous dog.

It is hereby declared to be a public nuisance that an owner or other person harbors, keeps, or maintains a dangerous dog in the city unless the owner complies with the requirements of this section, and state statutes regulating dangerous dogs.

Sec. 6-67.9. - Violations.

- (a) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with any section of this division;
- (b) An offense under this section is punishable by a fine not to exceed two thousand dollars (\$2,000.00).

Sec. 6-67.10. - Defenses.

- (a) It is a defense to prosecution under this division that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter or person employed by the state or a political subdivision of the state to deal with stray

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animals and has temporary ownership, custody or control of the dog; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous dog.

- (b) It is a defense to prosecution under this division that the person is an employee of the institutional division of the Texas Department of Criminal Justice or of a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; provided, however, that for any person to claim a defense under this section, that person must be acting within the course and scope of his or her official duties with regard to the dangerous dog.
- (c) It is a defense to prosecution under this division that the dog at issue is a trained guard dog in the performance of official duties while confined or under the control of its handler.

Sec. 6-68. - Prohibition on owner of a dog determined dangerous by another jurisdiction.

- (a) A person commits an offense if he owns a dog in the city that has been determined to be a dangerous dog by any other jurisdiction.

Sec-6-69. – Dangerous dog owned or harbored by minor.

If the owner of a dangerous dog is a minor, the parent or guardian of the minor is liable for all injuries sustained by any person or another animal in an unprovoked attack by the dog.

Secs. 6-70. - 6-74. - Reserved.

ARTICLE V. – RABIES

Sec. 6-75. - Rabies vaccination.

- (a) *Vaccinations required.*

(1) A person who owns, keeps, harbors or has custody of a dog, cat, or ferret over four (4) months of age must have said animal immunized against rabies by injection of anti-rabies vaccine by a licensed veterinarian.

(2) The same animal must receive a booster within the twelve (12) month interval following the animal's initial vaccination and receive a booster in every subsequent twelve month period.

(3) A person commits an offense if the person owns, keeps, harbors, or has custody of a dog, cat, or ferret that has not been immunized against rabies as required by this section.

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(b) Every owner of a dog, cat, or ferret immunized against rabies shall procure a rabies vaccination certificate from the veterinarian administering the vaccine and provide a copy of that certificate to the Animal Services Department.

Sec. 6-76. - Obedience to officer.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefore by the Animal Services Department.

Sec. 6-77. - Reports of bite and scratch cases.

It shall be the duty of every physician, or other medical practitioner, to report to the Animal Services Department the names and addresses of persons treated for a bite(s) or scratch(es) inflicted by an animal, together with such other information as will be helpful in rabies control.

Sec. 6-78. - Reports by veterinarians.

It shall be the duty of every licensed veterinarian in the county to immediately report to the Animal Services Department any animal considered by him to be a rabies suspect.

Sec. 6-79.1. - When individual quarantine required – examinations.

Every animal which, upon examination from a licensed veterinarian, demonstrates symptoms that reasonably could indicate rabies, shall be quarantined at the direction of the Animal Services Department for a period of ten (10) days, and shall not be released from such quarantine except by written permission of the Local Rabies Control Authority or the designees of the Animal Services Department. At the discretion of the Local Rabies Control Authority, such quarantine may be on the premises of the owner, at the shelter designated as the city animal shelter or at the owner's option and expense, in a veterinary hospital of his choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city animal shelter.

Sec. 6-79.2 – When individual quarantine required – bites and scratches.

Every animal which bites or scratches a person shall be promptly reported to the Animal Services Department and shall thereupon be securely quarantined at the direction of the Animal Services Department for a period of ten (10) days, and shall not be released from such quarantine except by written permission of the Local Rabies Control Authority or the designees of the Animal Services Department. At the discretion of the Local Rabies Control Authority, such quarantine may be on the premises of the owner, at the shelter designated as the city animal shelter or at the owner's option and expense, in a veterinary hospital of his choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city animal shelter.

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Sec. 6-80. - Duties of owner.

The owner upon demand by the Animal Services Department shall forthwith surrender any animal, which has bitten or scratched a human, or which is suspected as having been exposed to rabies, for supervised quarantine, the expense of which shall be borne by the owner. Such animal may be claimed by the owner if it is judged free of rabies, upon payment of fees set forth in section 84 and if a dog, upon compliance of licensing provisions set forth in section 6-62 et seq.

Sec. 6-81. - Pathological examination of suspected rabid animal.

When rabies has been diagnosed in an animal under quarantine, or rabies suspected by a licensed veterinarian, and the animal dies while under such observation, the Animal Services Department shall immediately send the head of such animal to the state health department for pathological examination and shall notify the proper public health officer of reports of human contacts and the diagnosis.

Sec. 6-82. - Authorization for citywide quarantine.

- (a) When the report indicates a positive diagnosis of rabies, the Local Rabies Control Authority may order an area wide quarantine for a period of sixty (60) days, and upon the invoking of such quarantine, no animal shall be taken into the streets, or permitted to be in the streets during such period of quarantine. During such quarantine, no animal may be taken or shipped from the city without written permission of the Local Rabies Control Authority.
- (b) During the quarantine period, and as long afterward as he decides it is necessary to prevent the spread of rabies, the Local Rabies Control Authority may require that all animals, three (3) months of age and older, shall be vaccinated against rabies. All vaccinated animals shall be restricted (leashing or confinement on enclosed premises) for thirty (30) days after vaccination. During the quarantine period, the Local Rabies Control Authority is hereby empowered to provide for a program of mass immunization by the establishment of temporary emergency rabies vaccination clinics strategically located through the area of the health jurisdiction.

Sec. 6-83. - Disposition of bitten or scratched animals.

Animals bitten or seriously scratched by a known rabid animal shall be immediately destroyed. If the owner is unwilling to destroy the exposed animal, and the animal does not have current rabies vaccination, three (3) vaccinations and strict isolation of the animal in a kennel for ninety (90) days shall be enforced. If the animal has been previously vaccinated, within time limits established by the public health service based on the kind of vaccination used, revaccination and restraint (leashing and confinement) for forty-five (45) days shall be carried out.

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Sec. 6-84. - Disposition of rabid animals.

The Local Rabies Control Authority shall direct the disposition of any animal found to be infected with rabies.

Sec. 6-85. - Killing rabid animals.

No person shall kill or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove the same from the city without written permission from the Local Rabies Control Authority.

Sec. 6-86. - Surrender of carcass of dead animal.

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the Animal Services Department.

Secs. 6-87—6-89. - Reserved.

ARTICLE VI. - PROHIBITED ANIMALS

Sec. 6-90. - Keeping of swine.

- (a) It shall be unlawful for any person other than a veterinarian to keep any live swine within the city limits, except in the hereinafter-named locations, for a longer period than twenty-four (24) hours.
- (b) The following locations are authorized for the keeping of hogs or swine:
 - (1) The campus and grounds of WISD Agriculture Farm.
 - (2) Any event within the city limits when hogs are kept thereon for exhibition purposes.
 - (3) All hog pens, barns, stables and other facilities shall meet the requirements of the city building code, zoning ordinance, and the general design standards, specifications, and operating procedures for animal establishments

Sec. 6-91. - Keeping of bees.

It shall be unlawful for any owner, person, or beekeeper to keep any colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of other, or interfere with the normal use and enjoyment of any public property or property of others.

Sec. 6-92. - Wild animals and venomous reptiles.

- (a) The ownership, harboring, possession, confinement, care, or transportation of dangerous wild or wild-hybrid animals, venomous reptiles, or otherwise prohibited animals within the city limits of the City of Waxahachie.
- (b) Dangerous wild or wild-hybrid animal includes: lion; tiger; ocelot; cougar; leopard; cheetah; jaguar; bobcat; lynx; serval; caraca; hyena; bear; coyote; jackal; baboon; chimpanzee; orangutan; gorilla; spider monkey; lemur; venomous reptiles; or any hybrid of an animal listed above.
- (c) This prohibition does not apply to:
 - (1) A county, municipality, or agency of the state or any agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;
 - (2) A research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2131), and its subsequent amendments, that is licensed by the Secretary of Agriculture of the United States under that Act;
 - (3) An organization that is an accredited member of the American Zoo and Aquarium Association;
 - (4) An injured, infirmed, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;
 - (5) An injured, infirmed, orphaned, or abandoned dangerous wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;
 - (6) A dangerous wild animal owned by and in the custody and control of transient circus company that is not based in the state if;
 - a. The animal is used as an integral part of the circus performances; and
 - b. The animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed thirty (30) days while the circus is performing outside the United States;

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- c. A dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;
 - d. A dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;
 - e. A dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;
 - f. A nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a class "A" or class "B" dealers license issued by the Secretary of Agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; and
 - g. A dangerous wild animal that is owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and an integral part of that species survival plan.
- (d) This prohibition shall also not be construed to apply to zoological parks, performing animal exhibitions or circuses.
- (e) Civil penalty:
- (1) A person who violates this section is liable for a civil penalty of not less than two hundred dollars (\$200.00) and not more than two thousand dollars (\$2,000.00) for each animal with respect to which there is a violation and for each day the violation continues.
 - (2) The City may sue to collect a civil penalty. A civil penalty collected under this subsection may be retained by the City.
 - (3) The City may also recover the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the animal registration agency in the civil action. Costs or fees recovered under this subsection shall be credited to the operating account from which payment for the animal registration agency's expenditures were made.

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Secs. 6-93, 6-94. - Reserved.

ARTICLE VII. - FEES

Sec. 6-95. - Fee for registration.

The applicant for the registration required by this division shall pay to the Animal Services Department the sum of five dollars (\$5.00) as a registration fee for each dog. The fee will be waived if the dog is already microchipped.

Sec. 6-96. - Animal turn-in fee.

Anyone turning in any animal to the Waxahachie Animal Facility shall be charged the following fees;

Impound	\$20.00
Euthanasia	\$40.00
Animal Disposal	\$10.00
Rabies Testing (Austin)	\$100.00
Quarantine (10 days) to be paid up front.	\$150.00

Sec. 6-97. - Adoption fees.

(a) *Dogs.*

- (1) Under three (3) months of age ... \$20.00* and must agree to a sterilization contract.
- (2) City Registration ... \$5.00* (If a city resident)
- (3) Over three months of age ... \$82.00*
(includes sterilization, wellness shots, rabies shot)

(b) *Cats.*

- (1) Under three months ... \$ 20.00* and must agree to a sterilization contract.
- (2) Over three months of age ... \$54.00*
(includes sterilization, wellness shots, rabies shots)

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Sec. 6-98. - Impoundment fees

- (a) *Quarantine animals.*
 - (1) Impoundment fee ... \$ 20.00
 - (2) Board per day ... \$7.00
 - (3) Registration, as required ... \$5.00

- (b) *Redemption of impounded dog.*
 - (1) *First offense:*
 - a. Must sign an Owner Reclamation Agreement
 - b. Impoundment fee ... \$20.00
 - c. Board per day ... \$5.00
 - d. Registration, as required ... \$5.00
 - e. Rabies, as required ... \$0.00

 - (2) *Second offense:*
 - a. Must sign an Owner Reclamation Agreement and animal must be spayed or neutered at the owner's expense prior to reclaiming the animal
 - b. Impoundment fee ... \$40.00
 - c. Board per day ... \$5.00
 - d. Registration, as required ... \$5.00
 - e. Rabies, as required ... \$0.00

 - (3) *Third offense:*
 - a. Must sign an Owner Reclamation Agreement
 - b. Impoundment fee ... \$80.00
 - c. Board per day ... \$5.00

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- d. Registration, as required ... \$5.00
- e. Rabies, as required ... \$0.00

(4) *Fourth or subsequent offenses:*

- a. Must sign an Owner Reclamation Agreement
- b. Impoundment fee ... \$160.00
- c. Board per day ... \$5.00
- d. Registration, as required ... \$5.00
- e. Rabies, as required ... \$0.00
- f. Upon a fourth or subsequent offense, the animal may be declared a public nuisance resulting in the mandatory removal of the animal from the city.

Secs. 6-99, 6-100. - Reserved.

ARTICLE VIII. - ANIMAL CARE ADVISORY COMMITTEE

Sec. 6-101. - Created.

There is hereby created in and for the City of Waxahachie the Waxahachie Animal Care Advisory Committee ("committee").

Sec. 6-102. - Composition.

The membership of the Committee shall be composed of at least:

- (a) One (1) licensed veterinarian;
- (b) One (1) county or municipal official;
- (c) One (1) person whose duties include the daily operation of an animal shelter;
and
- (d) One (1) representative from an animal welfare organization.

Sec. 6-103. - Appointment.

The members of the committee shall be appointed by the city council.

Sec. 6-104. - Purpose and authority.

The committee shall serve in an advisory capacity and shall make recommendations to city staff and city council in complying with Texas Health and Safety Code Chapter 823 or successor, as amended, and, in an advisory capacity, assist the city in establishing procedures applicable to the city's animal services program.

Sec. 6-105. - Compensation.

The members of the committee shall serve without compensation.

Sec. 6-106. - Terms.

Persons appointed to the committee by city council shall serve for a term of two (2) years, without terms limits, and each member shall serve at the will and pleasure of the city council. Any member who fails to attend more than two (2) committee meetings in succession shall automatically vacate the member's position on the committee. In that event, or in the event of a resignation from the committee, the city council shall name a successor from the same representative group.

Sec. 6-107. - Removal of member.

The city council may remove from office any member of the committee for any cause deemed by the council to be in the best interest of the city.

Sec. 6-108. - Meetings.

The committee shall meet at least three (3) times per year, or as specified by the Texas Health and Safety Code, if amended.

Sec. 6-109. - Obligations, liabilities of city not to be made.

The committee shall not have any authority to create legal obligations or liabilities of the city. Nothing herein grants the committee the privilege to manage city staff, issue policy, create or alter fees, or otherwise interfere with the operations of the city's animal services program. Recommendations shall be considered for implementation by the appropriate authority (city staff or city council) depending upon the nature of the recommendation.

Secs. 6-110, 6-115. - Reserved.

(21)

PASS, APPROVED, AND ADOPTED ON THIS THE 7th day of October, 2019.

MAYOR

ATTEST:

City Secretary

(27)



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Executive Director of Development Services
Thru: Michael Scott, City Manager *[Signature]*
Date: October 18, 2019
Re: Bid Award – East Avenue C Pavement Reconstruction

On Monday, October 21, 2019, a bid award associated with the reconstruction of the East Avenue C will appear before the City Council for consideration in the amount of \$135,060.30. J & K Excavation LLC was the lowest responsive bidder of two proposers, with a bid that was \$102,589.70 below the second bid.

Specifically this project will provide for a new concrete street pavement, curbs, sidewalk, water service line, and sewer service line on East Avenue C from Highway 77 to Ellis Street. Initially City staff anticipated performing the major portions of this work in-house, and \$40,000 in funding was set aside to fund third party services for the repaving of the street surface. However staff ultimately determined that allowing a third party contractor to perform the entire scope of services would result in a timelier repair that would be less disruptive to the surrounding residents.

There is sufficient funding in the Public Works Budget, from recently awarded projects that were well below budgeted amounts, to cover the additional expenses associated with the East Avenue C Reconstruction. In addition, the Utilities Department will fund \$30,925.00 of the project for the new water and sewer line services.

(22)

I am available at your convenience should you need any additional information.

Tommy Ludwig

(23) 824)



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Assistant City Manager
Thru: Michael Scott, City Manager *ML*
Date: October 18, 2019
Re: Bid Award – Phase I Rehabilitation Wastewater Treatment Plant

On Monday, October 21, 2019 a bid award associated with the Phase 1 Rehabilitation of the City's Wastewater Treatment Plant will appear before the City Council for consideration in the amount of \$17,167,400. Bar Constructors, Inc. was the lowest responsive bidder of five total proposers. This project is a planned capital expense in which \$14,000,000 was budgeted in the City's 5 Year Capital Improvement Plan.

The budget for this project was based on the engineer's estimate of probable cost. While the low bid exceeds the engineer's estimate, the lowest three bidders were separated by less than 3% and the contractors who participated in the bid represent the majority of the firms that perform services of this scope and scale. As a result, both the engineer of record and City staff do not believe rejecting these bids and advertising the project will result in more favorable pricing in the future.

Therefore, City staff and the project engineer met with the low bidder, Bar Constructors, Inc., to discuss a pursuing a deductive change order that would bring the project cost within budget, while also preserving the overall integrity of the project. As a result of these discussions staff is recommending the immediate approval of a deductive change order (Change Order 1), which will reduce the project by 25% and bring the total contract amount to \$12,875,550. The deductive change order modifies or eliminated the following components of the project:

- Canopy for Solids Handling Building (Eliminated)

(23+24)

- Aesthetic and Architectural Components (Modified)
- Wet Well Pump Conversions at Jefferson Street Lift Station (Eliminated)
- Electrical Improvements to Jefferson Street Lift Station (Modified)

While ideally reduced components would be included in the project scope, these reductions are necessary to bring the project within budget. The modified scope still accomplishes the primary objectives of the Phase I Rehabilitation, which was to optimize the Plant's solids handling and aeration operations. In addition, staff believes that the reduced portion of the project can be added back into the out years of the City's Capital Improvement Plan, or as funding becomes available.

I am available at your convenience should you need any additional information.

Tommy Ludwig



..n
(23+24)

October 14, 2019

Mr. David Bailey
Director of Utilities
City of Waxahachie, Texas
PO Box 757
Waxahachie, TX 75168

Re: Wastewater Treatment Plant Phase 1 Improvements
KHA No. 061269726

Dear David:

On September 5, 2019, the City of Waxahachie received bids for the Wastewater Treatment Plant Phase 1 Improvements. A bid summary is attached for your review and consideration. The City received bids from the following contractors:

- Bar Constructors, Inc. (Lancaster, TX)
- Red River Construction Co. (Wylie, TX)
- Eagle Contracting, L.P. (Keller, TX)
- Heritage Constructors, Inc., LP (Texarkana, TX)
- Weiss Construction Co. LLC

Bar Constructors, Inc. was the apparent low bidder with a base bid of \$17,167,400.

Kimley-Horn has reviewed the qualifications of Bar Constructors, Inc. and verified that the Contractor's bonding company is licensed in the State of Texas. Based on these reviews, it appears that Bar Constructors, Inc. is the lowest responsive bidder.

After reviewing the bids with City Staff, we understand that the base bid exceeds the budgeted amount for this project. Kimley-Horn worked with the City and Bar Constructors, Inc. to identify items that could be modified or removed to bring the project cost within budget while preserving the overall integrity of the project scope. Kimley-Horn agrees with the associated cost reduction proposed by Bar Constructors, Inc.

Kimley-Horn recommends awarding the construction contract to Bar Constructors, Inc. and executing Change Order No. 1 (attached) which reduces the contract amount by \$4,291,850. The revised contract amount will be \$12,875,550.00.

We have verified that Bar Constructors, Inc. agrees with the proposed change order that will result in a revised contract amount of \$12,875,550.00.

(23 + 24)



If you have any questions, please call me at (817) 339-2288.

Very truly yours,

KIMLEY-HORN AND ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read "Kyle Kubista".

Kyle Kubista, P.E.

KPK: rjj

Attachments

Copy to: Mr. Tommy Ludwig, City of Waxahachie (email)

\\FTWFP01\Data\Project\FTW_Utilities\061269726-Wax WWTP Ph 1 Improvements\BIDDING\Recommendation Letter\RecommendationLetter.docx

(23+24)



**CITY OF WAXAHACHIE, TEXAS
Wastewater Treatment Plant Phase 1 Improvements**

BID SUMMARY

Bids Received at 10:30 am on Thursday, September 5, 2019

<u>Contractor</u>	<u>Base Bid</u>
1. Bar Constructors, Inc. 805 Katy St. Lancaster, TX 75146	\$17,167,400.00
2. Red River Construction Co. 2804 Capital St. Wylie, TX 75098	\$17,348,500.00
3. Eagle Contracting, L.P. 5700 Park Vista Circle Keller, TX 76244	\$17,631,000.00
4. Heritage Constructors, Inc. P.O. Box 5903 Texarkana, TX 75505	\$18,619,100.00
5. Weiss Construction Co., LLC 79033 485 th St. Ashton, NE 68817	\$19,908,000.00

(23+24)

Date: October 14, 2019

CHANGE OR EXTRA WORK ORDER NO. 1

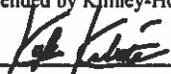
PROJECT DESCRIPTION: Wastewater Treatment Plant Improvements Phase 1
 KHA Project No.: 061269726
 OWNER: City of Waxahachie
 CONTRACTOR: BAR Constructors, Inc.
 ORIGINAL CONTRACT AMOUNT: \$17,167,400.00
 REVISED CONTRACT AMOUNT PER CHANGE ORDER No. 1: \$12,875,550.00

CHANGE OR EXTRA WORK TO BE PERFORMED

Item No.	Approx. Quantity	Description of Item	Updated Unit Price	Original Unit Price	Unit	Decrease in Contr. Price	Increase in Contr. Price
1	1	Mobilization	\$386,000.00	\$418,000.00	LS	(\$32,000.00)	
3	1	Jefferson Street Lift Station	\$57,167.00	\$2,053,000.00	LS	(1,995,833.00)	
7	1	Blower System and Building	\$2,665,916.00	\$2,992,000.00	LS	(326,084.00)	
10	1	Solids Handling Building Rehabilitation	\$1,119,338.00	\$2,157,000.00	LS	(1,037,662.00)	
13	1	Site Electrical, Instrumentation and Control	\$3,897,500.00	\$4,842,000.00	LS	(944,500.00)	
20	1	Project Allowance	\$44,229.00	\$0.00	LS		\$44,229.00

Total Increase in Contract Amount: \$44,229.00
 Total Decrease in Contract Amount: (4,336,079.00)
 Net Increase/Decrease in Contract Amount: (\$4,291,850.00)
 Revised Contract Amount: \$12,875,550.00
 Net Increase/(Decrease) in Contract Time of Completion: 0
 Revised Contract Time of Completion: 550

Recommended by Kimley-Horn and Associates, Inc.

By 

Accepted by Contractor

By _____

Substantial Completion:

Approved by Owners:
 City of Waxahachie

By _____

Distribution
 1-Owner, 1 - Contractor, 1 - KHA Office

(25)



Memorandum

To: Honorable Mayor and City Council

From: Tommy Ludwig, Assistant City Manager

Thru: Michael Scott, City Manager 

Date: October 18, 2019

Re: North Grove Boulevard Speed Study – Speed Limit Increase

On Monday October 21, 2019, an action item to increase the speed limit on North Grove Boulevard will appear before City Council for its consideration. In August 2019 the Public Works Department entered into a professional services contract with Lee Engineering to conduct a speed study on North Grove Boulevard. Lee Engineering's analysis determined that the appropriate speed limit for a street with the length, width, and traffic capacity of North Grove Boulevard is forty (40) miles per hour. As a result, staff is recommending to the City Council to adopt a speed limit of forty (40) miles per hour for North Grove Boulevard, which is an increase over the currently adopted thirty (30) miles per hour speed limit. If City Council approves this recommendation, the Public Works Department will provide new speed limit signage as quickly as possible. In addition, staff would coordinate with the Communications and Marketing Director to ensure the public is appropriately notified of the change.

I am available at your convenience should you need additional information.

Tommy Ludwig



Memorandum

To: Honorable Mayor and City Council
From: Tommy Ludwig, Assistant City Manager
Thru: Michael Scott, City Manager *MS*
Date: October 18, 2019
Re: Distribution Line: Lofland/Ovilla Road Loop - Phase 1

On Monday October 21, 2019 a professional services contract with Birkhoff, Hendricks & Carter, L.L.P. for the Lofland/Ovilla Road 24-Water Line, Phase 1 Project, associated with the City's Capital Improvement Plan, will appear before the City Council for consideration, in the amount of \$370,110.

The contract will provide engineering design, bid specification preparation, construction support services and right-of-way acquisition services to construct a 24" water transmission line. Limits of this line would be from the existing water line at the BNSF Railroad near Cardinal Road, west to FM 664 (Ovilla Road). The project will parallel Lofland Road and Marshall Road then connect to existing water line at FM 664, including connections to the water lines at the north end of Settlers Glen Development.

The Lofland/Ovilla Road 24" Water Line, Phase I is part of a larger series of water infrastructure improvements that will help facilitate transmission of water from the Sokoll Water Treatment Plant into the 791 Service Area, help facilitate growth, and stabilize water pressures in the Settlers Glen Subdivision in the northern part of the city service area.

(20)

This is an impact fee eligible project and is funded with Water Impact Fee Funds. This project is included in the Five Year Water Capital Improvement Program Plan. The project design engineering is being funded in FY 19-20 with the construction funding proposed in FY 20-21.

I am available at your convenience should you need additional information.

Tommy Ludwig