

CHAPTER 10

SUBDIVISION REGULATIONS

ARTICLE 10.01 GENERAL PROVISIONS^{*}

(Reserved)

ARTICLE 10.02 WATER AND WASTEWATER IMPACT FEES[†]

Division 1. Generally

Sec. 10.02.001 Title

This article shall be known and cited as the water and wastewater impact fees ordinance. (Ordinance 145.0, sec. 1.1, adopted 1/15/04)

Sec. 10.02.002 Intent

This article is intended to impose water and wastewater impact fees, as established in this article, in order to finance public facilities, the demand for which is generated by new development in the designated service area. (Ordinance 145.0, sec. 1.2, adopted 1/15/04)

Sec. 10.02.003 Authority

The city is authorized to enact this article by Texas Local Government Code chapter 395 (Senate Bill 336 enacted by the 70th Texas Legislature) and its successors, which authorizes cities, among others, to enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions, as charges or assessments imposed against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to such new development. The provisions of this article shall not be construed to limit the power of the city to adopt such ordinance pursuant to any other source of local authority, nor to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in substitution of or in conjunction with this article. Guidelines may be developed by resolution or otherwise to implement and administer this article. (Ordinance 145.0, sec. 1.3, adopted 1/15/04)

Sec. 10.02.004 Definitions

As applied in this article, the following words and terms shall be used:

Application for city utility service. The filing with the city of a written application for water or wastewater service and the acceptance of applicable fees by the city. The term “application for city utility service” shall not be applicable to a meter purchased for and exclusively dedicated to fire protection.

Area-related facility. A capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related service facility. An area-related service facility may include a capital improvement which is located off-site, within, or on the perimeter of the development site.

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

Building permit. A written document issued by the city pursuant to chapter 3 of this code authorizing the development of a lot and/or improvement to dwelling units, structures or other facilities located on said lot. "Building permit" shall include the issuance of a permit for irrigation or sprinkler systems.

Capital construction cost of service. Costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city.

Capital improvements program (CIP). A plan which identifies water and wastewater capital improvements or facility expansions pursuant to which impact fees may be assessed.

City administrator. The chief administrative and executive officer of the city, appointed by the city council and responsible to the city council for the administration of all the affairs of the city. "City administrator" includes any city employee designated to act in the city administrator's behalf.

City council (council). The governing body of the city.

City utilities. The municipal water and wastewater utilities of the city.

Commercial development. For the purposes of this article, all development which is neither residential nor industrial. Commercial development includes any structure or structures on a single lot designed to accommodate more than four dwelling units.

Duplex. A structure on a single lot designed to accommodate two dwelling units.

Dwelling unit. A structure or portion of an overall structure in which a typical household or person or unrelated persons would reside together. A single dwelling unit would include a single-family detached house or individual units of attached housing, i.e., one unit within a duplex, triplex, quadplex, or larger apartment building.

Existing development. All development within the service area which has an approved final plat.

Facility expansion. The expansion of the capacity of an existing facility in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

Final subdivision plat or final plat. The map, drawing, or chart of a subdivision, which has received final approval by the city council and is recorded with the office of the county clerk.

Growth-related costs. Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions, or from new capital facilities. Growth-related costs do not include:

- (1) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
- (2) Repair, operation, or maintenance of existing or new capital improvements or facility expansions;
- (3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
- (4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
- (5) Administrative and operating costs of the city's utilities; and
- (6) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.

Impact fee. A fee to be imposed upon new development, calculated based upon the growth-related costs of facilities in proportion to development creating the need for such facilities. Impact fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities required by other ordinances of the city code or policy.

Impact fee advisory committee (advisory committee). An advisory committee, appointed by the city council, consisting of at least five members who are not employees of the city, not less than 40 percent of which shall be representatives of the real estate, development, or building industries, which is appointed to regularly review and update the capital improvements program in accordance with the requirements of Texas Local Government Code chapter 395 and its successors.

Land use assumptions plan (plan). Projections of changes in land uses, densities, intensities, and population therein over at least a 10-year period, adopted by the city, as may be amended from time to time, upon which the capital improvement plan is based.

Living unit equivalent (LUE). Basis for establishing equivalency among and within various customer classes based upon the relationship of the continuous duty maximum flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a 3/4" diameter simple water meter, using American Water Works Association C700-C703 standards. For purposes of this article, 5/8" water meters are considered to equal one (1) LUE. LUEs for various water meter sizes are shown on table 1 in section 10.02.008.

New development. Subdivision of land; or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land, any of which increases the number of service units for water or wastewater service. New development includes the provision of water or wastewater service resulting from the conversion of an individual well, or septic or other individual waste disposal system, to the city utilities' water or wastewater systems.

Quadplex. A structure on a single lot designed to accommodate four dwelling units.

Residential. A lot developed for use and occupancy as a single-family residence, duplex, triplex, or quadplex.

Service area. Area within the corporate boundaries and within the extraterritorial jurisdiction as defined by the Municipal Annexation Act (chapter 41, section 4202, Local Government Code), or such areas as contractually defined to be served by the water and wastewater capital improvements or facilities expansions specified in the capital improvements program applicable to the service area.

Service unit. Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions, expressed in living units equivalent.

Single-family residence. Single-family dwelling unit.

Site-related facility. An improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

Triplex. A structure on a single lot designed to accommodate three dwelling units.

Wastewater capital improvements plan (wastewater CIP). A portion of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater facility expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this article.

Wastewater facility. An improvement for providing wastewater service, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facilities exclude dedication of rights-of-way or easements or construction or dedication of on-site wastewater collection facilities required by valid ordinances or policies of the city and necessitated by and attributable to the new development.

Wastewater facility expansion. Expansion of the capacity of any existing wastewater facility for the purpose of serving new development, not including the repair, maintenance, modernization, or expansion of an existing wastewater facility to serve existing development.

Water capital improvements plan (water CIP). A portion of the CIP, as may be amended from time to time, which identifies the water facilities or water facility expansions and their associated costs which are necessitated by and which are attributable to new development, for a period not to exceed ten (10) years, which are to be financed in whole or in part through the imposition of water impact fees pursuant to this article.

Water facility. An improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission mains. Water facilities also exclude dedication of rights-of-way or easements or

construction or dedication of on-site water distribution facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Water facility expansion. Expansion of the capacity of any existing water facility for the purpose of serving new development, not including the repair, maintenance, modernization, or expansion of an existing water facility to serve existing development.

(Ordinance 145.0, sec. 1.4, adopted 1/15/04)

Sec. 10.02.005 Applicability

No new development shall be exempt from the assessment of impact fees as defined in this article. However, the city council may determine that, for reasons of general community welfare, the applicable fees shall be paid by the city into the appropriate utility funds in lieu of payment by the applicant. (Ordinance 145.0, sec. 1.5, adopted 1/15/04)

Sec. 10.02.006 Payment of fees as condition of development approval

No application for new development shall be approved without assessment of impact fees pursuant to this article, and no application for city utility service or a building permit shall be issued [approved] unless the applicant has paid the impact fees imposed by and calculated herein. (Ordinance 145.0, sec. 1.6, adopted 1/15/04)

Sec. 10.02.007 Number of service units

(a) Service units are established in accordance with generally accepted engineering and planning standards.

(b) Upon application for a city building permit, the number of service units for levy of impact fees related to major water and wastewater facilities shall be based on the living units equivalent as determined by the size of the water meter(s) for the development. In the case of a new multifamily customer with greater than four attached units where the units are to have individual water meters, the levy of impact fees can alternately be based upon the potential size of a hypothetical master meter that would serve all of the attached units, calculated from the fixture flow provisions found in the city's current plumbing code applied to a fixture count of all units in the multifamily building.

(c) If a fire demand meter is purchased for a property, the meter size utilized to calculate the number of LUEs shall be the dimension of the portion of the fire demand meter which reflects the meter size which would provide only domestic service to the property. Said reduced meter size shall then be utilized to calculate the number of LUEs. The meter types used to calculate the number of LUEs shall be either simple or compound meters.

(d) The city council may revise the service units designation according to the procedure set forth in Texas Local Government Code chapter 395 and its successors.

(Ordinance 145.0, sec. 1.7, adopted 1/15/04)

Sec. 10.02.008 Fees per service unit

Unless changed by subsequent ordinance, the impact fees per living unit equivalent (LUE) for water and wastewater shall be six thousand, nine hundred and fifty dollars (\$6,950.00) broken down as

follows: five thousand, four hundred dollars (\$5,400.00) for water facilities, and one thousand, five hundred fifty dollars (\$1,550.00) for wastewater facilities. (Ordinance 2014-18, sec. A, adopted 12/18/14)

Sec. 10.02.009 Assessment

(a) The approval of any subdivision of land or of any new development shall include as a condition the assessment of the impact fee applicable to such development.

(Ordinance 145.0, sec. 1.9, adopted 1/15/04)

(1) For a development which is submitted for approval pursuant to the city's subdivision regulations and policies following the effective date of this article, assessment shall be at the time of recordation of a subdivision plat or other plat in the official records of the county clerk of the county in which the tract is located, and shall be the amount as set forth in appendix A, fee schedule in this code. (Ordinance 2016-03 adopted 3/3/16)

(2) No assessment of impact fees pursuant to this article shall be made for a development which has received final plat approval prior to the effective date of this article (ordinance adopted January 15, 2004). Any development which has received final plat approval and has been assessed a impact fee under a previous ordinance shall not have that impact fee assessment changed.

(3) For land on which new development occurs or is proposed to occur without platting, assessment shall be at any time during the development or building process, but not later than application for a city building permit.

(4) Because fire protection is of critical concern to the community as a whole, water demand related solely to fire protection is not subject to assessment of an impact fee. However, if the fire protection capacity of the fire demand meter is routinely utilized for domestic purposes as evidenced by the registration of consumption recorded on the city's meter-reading and billing systems, the current owner of the property shall be assessed the current impact fees, as set forth in section 10.02.007(c), for the fire protection capacity which has been converted to domestic capacity by its routine usage as domestic capacity.

(c) Following assessment of the impact fee pursuant to subsection (b), no additional impact fees or increases thereof shall be assessed against that development unless the number of service units increases, as set forth under section 10.02.007.

(d) Following the lapse or expiration of approval for a plat, a new assessment must be performed at the time a new final plat for such development is approved.

(Ordinance 145.0, sec. 1.9, adopted 1/15/04)

Sec. 10.02.010 Calculation

Following the request for new development as provided in section 10.02.011 of this article, the city shall compute impact fees due for the new development in the following manner:

(1) The applicable number of service units per dwelling unit or per water meter size shall be determined according to section 10.02.007 of this article;

- (2) The total service units shall be multiplied by the appropriate per-unit fee amount determined as set forth in section 10.02.008.

(Ordinance 145.0, sec. 1.10, adopted 1/15/04)

Sec. 10.02.011 Collection

- (a) No approval of an application for a city building permit or utility service shall be made until all relevant impact fees have been paid to the city, or until a “notice of impact fee due” is recorded as provided in this section.
- (b) For a platted or unplatted development which is submitted for approval pursuant to the city's subdivision regulations and utilities policies subsequent to the effective date of this article (ordinance adopted January 15, 2004), impact fees shall be collected at the time of application for a city building permit.
- (c) For a development which has received final plat approval prior to the effective date of this article (ordinance adopted January 15, 2004) and for which no replatting is necessary prior to provision of water or wastewater utility services, impact fees shall be collected at the time of application for a city building permit except as provided by section 10.02.014.
- (d) In the event that water or wastewater utility service is provided as the result of a conversion from an individual well, or septic or other individual waste disposal system, the appropriate fee shall be collected at the time of application for city utility service, except as provided below:
- (1) At the request of the applicant, and with the approval of the city administrator, the impact fees for such customers may be paid in increments over a period of not more than one year.
 - (2) If the applicant chooses this extended payment option, the applicant shall, as a condition of utility service, sign and file with the city administrator, and consent to the recordation of, a “notice of impact fee due,” which shall be recorded as a lien against the subject property. The city shall release the lien held only upon payment in full of the impact fees and any late penalties.
 - (3) Late payments shall subject the applicant to a penalty of ten percent of the amount due in addition to all other remedies available to the city as lienholder.

(Ordinance 145.0, sec. 1.11, adopted 1/15/04)

Sec. 10.02.012 Offsets and credits

The city shall credit impact fees which have been paid pursuant to Ordinance No. 131.0 and Ordinance No. 134.0, prior to the effective date of this article (ordinance adopted January 15, 2004), against the amount of an impact fee due. (Ordinance 145.0, sec. 1.12, adopted 1/15/04)

Sec. 10.02.013 Establishment of accounts

- (a) The city shall establish adequate accounting procedures to insure that the funds are kept separate and in interest-bearing accounts.

(b) Interest earned by such accounts shall be credited to the appropriate fund and shall be used solely for the purposes specified for funds authorized in section 10.02.014.

(c) The city shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the accounts are utilized solely for the purposes authorized in section 10.02.014. Disbursement of funds shall be authorized by the city utility board at such times as are reasonably necessary to carry out the purposes and intent of this article; provided, however, that any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.

(d) The city administrator shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, which shall account for all monies received, and which shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program as area-related facilities. The city shall also maintain such records as are necessary to ensure that refunds are appropriately made under the provisions in section 10.02.016 of this article.

(Ordinance 145.0, sec. 1.13, adopted 1/15/04)

Sec. 10.02.014 Use of proceeds

(a) The impact fees collected pursuant to this article may be used to finance or to recoup capital construction costs of service. Impact fees may also be used to retire bonds or pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such water and wastewater capital improvements or facilities expansions.

(b) Impact fees collected pursuant to this article shall not be used to pay for any of the following expenses:

- (1) Construction, acquisition or expansion of capital improvements or assets other than those identified for the appropriate utility in the capital improvements plan;
- (2) Repair, operation, or maintenance of existing or new capital improvements or facilities expansions;
- (3) Upgrading, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
- (4) Upgrading, expanding, or replacing existing capital improvements to provide better service to existing development; provided, however, that impact fees may be used to pay the costs of upgrading, expanding, or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
- (5) Administrative and operating costs of the city.

(Ordinance 145.0, sec. 1.14, adopted 1/15/04)

Sec. 10.02.015 Appeals

(a) The property owner or applicant for new development may appeal the following decisions to the utility board of the city:

- (1) The applicability of an impact fee to the development;
- (2) The availability or the amount of an offset or credit;
- (3) The application of an offset or credit against a impact fee due;
- (4) The amount of the refund due, if any.

(b) The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the offset or credit was not calculated according to the applicable impact fee schedule or the guidelines established for determining offsets and credits.

(c) If the appellant is dissatisfied with the decision of the utility board, a notice of appeal may filed with the city administrator within thirty (30) days following the decision. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city secretary in an amount equal to the original determination of the impact fee due, the development application or application for city building permit may be processed while the appeal is pending.

(d) A person who has exhausted all administrative remedies as provided above, and is aggrieved by a final decision, is entitled to trial de novo in accordance with Local Government Code section 395.077.

(Ordinance 145.0, sec. 1.15, adopted 1/15/04)

Sec. 10.02.016 Refunds

(a) (1) Any impact fee or portion thereof collected pursuant to this article which has not been expended for the purposes and within the time frame set forth in Local Government Code section 395.002(a) shall be refunded, upon application, to the record owner of the property at the time the refund is paid.

(2) Any impact fee or part of it that is not spent as authorized by this article within 10 years after the day of payment shall be refunded to the then owner of record within 60 days and without request by said owner of record.

(b) An impact fee collected pursuant to this article shall be considered expended if the total expenditures for capital improvements or facilities expansions authorized in section 10.02.014 within ten (10) years following the date of payment exceeds the total fees collected for such improvements or expansions during such period.

(c) If a refund is due pursuant to subsections (a) and (b), the city shall prorate the same by dividing the difference between the amount of expenditures and the amount of the fees collected by the total number of service units assumed within the service area for the period to determine the refund due per service unit. The refund to the record owner or governmental entity shall be calculated by multiplying the refund due per service unit by the number of service units for the development for which the fee was paid.

(d) Petition for refunds shall be submitted to the city administrator on a form provided by the city for such purpose. Within two months of the date of receipt of a petition for refund, the city administrator must provide the petitioner, in writing, with a decision on the refund request, including the reasons for the decision. If a refund is due to the petitioner, the city administrator shall cause a refund payment to be made to the petitioner. The petitioner may appeal the determination to the city council as set forth in section 10.02.015.

(Ordinance 145.0, sec. 1.16, adopted 1/15/04)

Sec. 10.02.017 Updates to plan and revision of fees

The city shall review the land use assumptions plan and capital improvements plan for water and wastewater facilities at least every five years, the first five-year period which shall commence from the date of adoption of the capital improvements plan referenced herein. The city council shall accordingly then make a determination of whether changes to the land use assumptions plan, capital improvements plan or impact fees are needed and shall, in accordance with the procedures set forth in Texas Local Government Code chapter 395, or any successor statute, either update the fees or make a determination that no update is necessary. (Ordinance 145.0, sec. 1.17, adopted 1/15/04)

Sec. 10.02.018 Functions of advisory committee

(a) The functions of the advisory committee are those set forth in Texas Local Government Code chapter 395, or any successor statute, and shall include the following:

- (1) Advise and assist the city in adopting the land use assumptions plan;
- (2) Review the capital improvements plan regarding water and wastewater capital improvements and file written comments thereon;
- (3) Monitor and evaluate implementation of the capital improvements program;
- (4) Advise the city of the need to update or revise the land use assumptions plan, capital improvements program, and impact fees; and
- (5) File a semiannual report evaluating the progress of the city in achieving the capital improvements plans and identifying any problems in implementing the plans or administering the impact fees.

(b) The city shall make available to the advisory committee any professional reports prepared in the development or implementation of the capital improvements plan.

(c) The council shall adopt procedural rules for the committee to follow in carrying out its duties.

(Ordinance 145.0, sec. 1.18, adopted 1/15/04)

Sec. 10.02.019 Relief procedures

(a) The council may grant a variance or waiver from any requirement of this article, upon written request by a developer or owner of property subject to this article, following a public hearing, and only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.

(b) If the council grants a variance or waiver to the amount of the impact fees due for a new development under this section, it shall cause to be appropriated from other city funds the amount of the reduction in the impact fees to the account in which the fees would have been deposited.

(Ordinance 145.0, sec. 1.19, adopted 1/15/04)

Sec. 10.02.020 Exemptions

No exemptions will be granted from payment of applicable water and wastewater impact fees, except as provided for in section 10.02.019. (Ordinance 145.0, sec. 1.20, adopted 1/15/04)

Secs. 10.02.021–10.02.040 Reserved

Division 2. Water Facilities Fees

Sec. 10.02.041 Water service area

The boundaries of the water service area may be amended from time to time, and new water service areas may be delineated, pursuant to the procedures set forth in Texas Local Government Code chapter 395 and its successors. (Ordinance 145.0, sec. 2.01, adopted 1/15/04)

Sec. 10.02.042 Land use assumptions plan

The land use assumptions plan for the city for water facilities prepared by the city utility board and approved by the utility board on October 14, 2003, is hereby adopted and incorporated herein by reference. (Ordinance 145.0, sec. 2.02, adopted 1/15/04)

Sec. 10.02.043 Water improvements plan

(a) The water improvements plan for the city for impact fee calculation purposes, prepared by Freese and Nichols, Inc. and dated August 2014, is hereby adopted, incorporated herein by reference and filed in the public works director's office. (Ordinance 2014-18, sec. B, adopted 12/18/14)

(b) The water improvements plan may be amended from time to time pursuant to the procedures set forth in Texas Local Government Code chapter 395 and its successors. (Ordinance 145.0, sec. 2.03, adopted 1/15/04)

Secs. 10.02.044–10.02.070 Reserved

Division 3. Wastewater Facilities Fees

Sec. 10.02.071 Wastewater service area

The boundaries of the wastewater service area may be amended from time to time, and new wastewater service areas may be delineated, pursuant to the procedures set forth in Texas Local Government Code chapter 395 and its successors. (Ordinance 145.0, sec. 3.01, adopted 1/15/04)

Sec. 10.02.072 Land use assumptions plan

The land use assumptions plan for the city for wastewater facilities prepared by the city utility board and approved by the utility board on October 14, 2003, are hereby adopted and incorporated herein by reference. (Ordinance 145.0, sec. 3.02, adopted 1/15/04)

Sec. 10.02.073 Wastewater improvements plan

(a) The wastewater improvements plan for the city for impact fee calculation purposes, prepared by Freese and Nichols, Inc. and dated August 2014, is hereby adopted, incorporated herein by reference and filed in the public works director's office. (Ordinance 2014-18, sec. C, adopted 12/18/14)

(b) The wastewater improvements plan may be amended from time to time pursuant to the procedures set forth in Texas Local Government Code chapter 395 and its successors. (Ordinance 145.0, sec. 3.03, adopted 1/15/04)

ARTICLE 10.03 DEVELOPMENT AGREEMENTS FOR LAND IN EXTRATERRITORIAL JURISDICTION

Sec. 10.03.001 Purpose; applicability

(a) Purpose. The purpose of a development agreement is to enable development of land in the city extraterritorial jurisdiction to occur at densities or intensities of use that require public water and wastewater services and that are to be governed by standards applicable to development inside the city limits. The purpose of the agreement also shall be to provide for development outside the city limits that is compatible with development inside the city limits in anticipation of eventual annexation of the land subject to the agreement into the city.

(b) Applicability. A development agreement shall be used where it is likely that the property subject to the agreement will remain in the extraterritorial jurisdiction for a period exceeding five years and the property owner seeks to pursue development prior to annexation at urban level residential and commercial densities or intensities of use.

(Ordinance 159, sec. 1, adopted 11/16/06)

Sec. 10.03.002 Policies applicable to decisions on petitions

The following policies shall be taken into consideration in deciding a petition for approval of a development agreement:

- (1) Development of the property under the proposed agreement and land use plan should implement the policies of the master plan;
- (2) Extension of public facilities and services to the property under the agreement should not compromise the city's ability to timely provide adequate public facilities to property inside the city or degrade environmental resources;
- (3) Water quality impacts arising from the proposed development should be mitigated by measures provided in the development agreement;
- (4) The agreement should not further the creation or expansion of other utility providers to the city's detriment;

- (5) The agreement should authorize application of the city's zoning and development standards to the uses proposed, which otherwise could not be applied to the proposed development;
- (6) The agreement should authorize the city to recoup the costs of capital improvements provided to the development while it remains in the extraterritorial jurisdiction;
- (7) The schedule of annexation proposed in the agreement should further the city's policies on expansion and growth of the city;
- (8) The agreement should not create future barriers to annexation of land contiguous to the area subject to the agreement; and
- (9) The agreement should not promote economic development that undermines or inhibits economic development within the city center or other economic centers of the community.

(Ordinance 159, sec. 2, adopted 11/16/06)

Sec. 10.03.003 Contents

A development agreement at a minimum shall contain the following provisions, which shall be drafted to the satisfaction of the city attorney:

- (1) A legal description of the land subject to the agreement.
- (2) A description of the proposed development, identifying each land use authorized, including the density or intensity of such use, and including incorporation by reference of a land use plan prepared in accordance with section 10.03.004.
- (3) The proposed schedule of development.
- (4) Proposed base zoning districts for the property following annexation to the city.
- (5) A complete list of all development standards that shall be applied to the property, referenced to the standards in city development codes, through the agreement, together with a list of standards in the code that do not apply to the development.

(Ordinance 159, sec. 3, adopted 11/16/06)

- (6) A complete list of all development application procedures that shall be applied to the property, referenced to the articles and sections of the city subdivision ordinance, through the agreement, together with a list of procedures in the ordinance that do not apply to the development. (Ordinance 159, sec. 3, adopted 11/16/06; Ordinance adopting Code)
- (7) A list of special standards applicable to the development of the property that normally do not apply to the development of land within the city or its extraterritorial jurisdiction.

- (8) A schedule for providing public facilities and services to the development that identifies the service provider and the approximate dates within which service will be provided for each phase of the development.
- (9) Identification of the means and provisions for financing each public service required to support the development of the property, including but not limited to contributions in aid of construction, dedication of rights-of-way for public improvements, and construction of such improvements.
- (10) A schedule for annexing the property into the city, together with any guarantees of immunity from annexation, identifying the period during which the property may not be annexed.
- (11) The term of the agreement and provisions for extension, if any.
- (12) Provisions for enforcement of the agreement by the city.
- (13) Provisions for amending the agreement.
- (14) Provisions for recording the agreement. The agreement shall be recorded in each county by the developer in which some of the land subject to the agreement is located.
- (15) Provisions assuring that the agreement shall bind successors-in-interest to the parties.

(Ordinance 159, sec. 3, adopted 11/16/06)

Sec. 10.03.004 Land use plan

- (a) Purpose. The purpose of the land use plan that is to be incorporated into the development agreement is to graphically depict the locations of authorized uses for the land subject to the agreement, and to define prospective zoning district boundaries and development standards for such areas.
- (b) Relationship to city future land use plan. The land use plan shall be consistent with the city future land use plan.
- (c) Consistency with land use plan. Subsequent development applications shall be consistent with the land use plan.
- (d) Phasing and development standards. Unless expressly provided to the contrary in the annexation agreement, only the initial phase of development shall be authorized while the property is located outside the city limits. Development that occurs outside the city limits pursuant to the development agreement and land use plan shall be subject to the use limitations and standards in the zoning district referenced in the land use plan.
- (e) Zoning upon annexation. Following annexation of the land into the city, the zoning classifications for the property shall be substantially similar to those designated in the development agreement. Areas designated in the land use plan for specific zoning classifications shall be zoned in accordance with the agreement. The land subject to the agreement shall be zoned upon annexation to the city in accordance with the procedures of the city zoning ordinance.

(Ordinance 159, sec. 4, adopted 11/16/06)

Sec. 10.03.005 Approval procedures

(a) Application submittal. City staff will inspect the development agreement application to verify that it conforms to all of the submittal requirements of this article. Within ten (10) working days, written notice of the necessary documents or other information that the applicant failed to provide with the application shall be provided to the applicant for compliance. The written notice shall include the date the application will expire if the necessary documents or other information is not provided. Development agreement applications will expire within 45 calendar days of the date the application is delivered to the city or sent to the city by certified mail if the applicant fails to provide the specified documents or other information required in the written notice to the applicant.

(b) Recommendation by the public works department. Prior to final plat approval, city staff shall furnish the public works department a report concerning application for a development agreement, land use plan, and filing fees. When the public works department is satisfied that all conditions and requirements have been met, the public works department shall recommend approval or disapproval of the development agreement at their next scheduled meeting. The public works department's recommendation of the development agreement shall not constitute final approval, but is the authorization to present the development agreement to the city council for final approval. If any major changes are required by the public works department, the public works department may require submission of another development agreement.

(c) Approval by the city council. The public works department shall forward its recommendation for approval or disapproval to the city council for action. The city council will base their approval or disapproval of the development agreement on compliance with the regulations and policies contained in this article.

(Ordinance 159, sec. 5, adopted 11/16/06; Ordinance 2011-02 adopted 3/17/11)

Sec. 10.03.006 Provision of city services

In approving the development agreement and land use plan, the city council shall decide the method by which city services will be provided to serve development of the property subject to the agreement, and may resolve all issues pertaining to extension of water and wastewater facilities. (Ordinance 159, sec. 6, adopted 11/16/06)

ARTICLE 10.04 SUBDIVISION ORDINANCE

Sec. 10.04.001 Adopted

The subdivision ordinance, Ordinance 26.5, adopted by the city on December 16, 2004, as amended, is included at the end of this chapter as exhibit A. Due to the nature of the subdivision ordinance and the technicalities involved in adopting or amending it, such ordinance is printed herein as enacted, with only nonsubstantive formatting and style changes. Capitalization, punctuation and numbering of articles, sections and subsections have been retained as enacted. Subsequent amendments will be inserted in their proper place and denoted by a history note following the amended provisions. The absence of a history note indicates the material is unchanged from the original. Obviously misspelled words have been corrected without notation. Any other material added for purposes of clarification is enclosed in brackets. (Ordinance adopting Code)

EXHIBIT A**SUBDIVISION ORDINANCE***

ORD. 26.5

AN ORDINANCE

PRESCRIBING RULES AND REGULATIONS GOVERNING PLATS, PLANS AND SUBDIVISIONS OF LAND WITHIN THE INCORPORATED AREA AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF FAIR OAKS RANCH, TEXAS; PRESCRIBING REQUIREMENTS AND STANDARDS FOR STREETS, DRAINAGE, FLOOD CONTROL, AND UTILITIES; REPEALING ORDINANCE 26.0 AND SUBSEQUENT AMENDMENTS; ESTABLISHING CONSTRUCTION STANDARDS AND OTHER REQUIREMENTS PERTINENT THERETO; CONTAINING CERTAIN DEFINITIONS; PRESCRIBING A PENALTY AND FINE OF NOT LESS THAN \$50 NOR MORE THAN \$2000, AND PROVIDING A SEVERABILITY CLAUSE

WHEREAS, under the provisions of Chapter 212 of the Local Government Code, as heretofore or hereafter amended, the owner of a tract of land located within the corporate limits or in the extraterritorial jurisdiction of The City of Fair Oaks Ranch who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to the municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated; and,

WHEREAS, Ordinance No. 26.0, and all subsequent amendments, regulating the filing for record of subdivision plats and establishing construction standards, is no longer adequate to promote and protect the general health, safety, and welfare of persons residing in the City of Fair Oaks Ranch.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIR OAKS RANCH, TEXAS:

Ordinance 26.0, and all subsequent amendments are hereby repealed and the Subdivision Ordinance of the City of Fair Oaks Ranch, Ordinance 26.5 is hereby established.

Article I. General

A. The owner or owners of any tract of land situated within the city limits of Fair Oaks Ranch, Texas, or its extraterritorial jurisdiction, who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to the municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, or who applies for a building permit upon a previously

subdivided tract for which a approved plat has not been recorded, must comply with the provisions of this ordinance.

B. No transfer of land in the nature of a subdivision as defined herein shall be exempt from the provisions of this ordinance even though the instrument or document of transfer may describe land so subdivided by metes and bounds.

Section 1. DEFINITIONS

For the purpose of this ordinance, certain terms and words are hereby defined as follows. Terms not defined herein shall be construed in accordance with their customary usage and meaning. The word "shall" is mandatory and not permissive. The word "may" is permissive and not mandatory. The words "may not" and "shall not" are both prohibitive. Headings and captions are for reference purposes only, and shall not be used in the interpretation of this ordinance.

Amended Plat: A map or plan of a platted lot, tract or parcel of land meeting the criteria described in Chapter 212.016 of The Local Government Code.

Arterial Streets: Streets which carry large volumes of traffic from one part of the city to another; for example; Fair Oaks Parkway, Dietz Elkhorn, Pimlico Lane - from Fair Oaks Parkway to Ralph Fair Road, Keeneland Drive and others as designated by City Council.

City Administrator: The City Administrator and/or his/her duly authorized representative.

Collector Streets: Streets which collect traffic from neighborhoods and feed into arterial streets or other collector streets.

Final Plat: The map or plan of a subdivision that is submitted to the City staff and the City Council for final approval. After approval, the plat is recorded under provisions of Chapter 192 of the Local Government Code and Chapter 12 of the Property Code.

Lot: An undivided tract or parcel of land having frontage on a public street, which is, or in the future may be, offered for sale, conveyance, transfer, or improvement, which is designated as a distinct and separate tract, and which is identified by a tract number, lot number, or other symbol.

(Ordinance 26.5 adopted 12/16/04)

Open Space, Private - Privately owned areas intended for the private use by residents of an individual development or dwelling unit, designed for outdoor living and recreation or the retention of an area in its natural state. Private open spaces may include landscaped areas but does not include off-street parking, maneuvering, loading, or delivery areas.

Open Space, Public - Open space owned and maintained by a unit of government for the use and benefit of the general public.

Park, Private - A tract of land presently owned or controlled and used by private or semipublic persons, entities, groups, etc. for active and/or passive recreational purposes.

Park, Public - A natural or landscaped area, buildings, or structures, owned by a unit of government, designed to meet the active or passive recreational needs of people. A land use designed principally to offer recreation, passive or active, to the public.

(Ordinance 26.7, sec. 1, adopted 5/17/07)

Preliminary Plat: The first or introductory map or plan of a proposed subdivision that is submitted to the City staff for initial approval as the basis for development of a final plat.

Private Street: A Street which is not a public thoroughfare.

Resubdivision: The division of an existing subdivision, or a part of an existing subdivision, together with any change of lot size therein, or with the relocation of any street lines.

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.

Subdivision: A division of any tract of land located within the corporate limits or in the extraterritorial jurisdiction of The City of Fair Oaks Ranch into two or more parts to lay out a subdivision of the tract, including an addition to a municipality, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A subdivision includes a division of a tract regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. Subdivision includes Resubdivision but does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated.

(Ordinance 26.5 adopted 12/16/04)

Undeveloped Tract - Land within the city limits or ETJ of Fair Oaks Ranch that is unplatted on the date the Subdivision Ordinance was amended to include tree and habitat protection regulations.

(Ordinance 26.7, sec. 1, adopted 5/17/07)

Section 2. PROHIBITIONS

A. It shall be unlawful for any landowner, or the agent of any landowner, to lay out, subdivide, plat or resubdivide any land into lots, blocks and streets within the jurisdictional limits of the City without the approval of the City Council in accordance with this ordinance.

B. It shall be unlawful for any landowner, or the agent of any landowner, to sell or offer for sale, any real property (land) or parts thereof without platting said property in accordance with this ordinance.

C. No building, repair, plumbing or electrical permit shall be issued by the City for any structure on a lot in a subdivision until the plat of the subdivision has been approved by the City Council and filed for record.

D. The City shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record, or in which the standards contained herein or referred to herein have not been complied with in full.

E. The City shall not sell any water or sewage service within a subdivision for which a plat has not been approved or filed for record, or in which the standards contained herein or referred to herein have not been complied with in full.

Section 3. PENALTIES

Any person who subdivides, or attempts to subdivide any land in the City into two or more parts without complying with the provisions of this ordinance or who violates any other provisions of this ordinance shall be guilty of a misdemeanor and shall be liable to a penalty of a fine of not less than \$50 nor more than \$2000. Such penalty shall be without prejudice to any and all civil remedies, in law or in equity, to which the City may be entitled for violations of this ordinance.

Section 4. SEVERABILITY CLAUSE

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion hereof, or provision or regulation contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase or provision of this ordinance.

Section 5. REPEAL OF CONFLICTING ORDINANCES

All ordinances and parts of ordinances in conflict herewith are expressly repealed to the extent of their inconsistency; provided, however, that whenever higher or more restrictive standards are established by the provisions of any other ordinance or regulation than those established by this ordinance, the provisions of such other ordinance or regulation shall govern.

Article II. Procedures

Section 1. SUBMISSION OF PRELIMINARY PLAT

A. Procedures for Submission.

When submitting a preliminary plat for consideration by the Fair Oaks Ranch Public Works Department, the Subdivider shall deliver the following to the City Administrator no later than the 15th day of the month prior to the date the plat is to be considered by the Public Works Department:

1. Four blue or black line copies of the preliminary plat, plus one 8-1/2 x 11 black and white copy.
2. A preliminary water distribution, sanitary sewer and stormwater drainage plan, including proposed pipe sizes and grading.
3. Filing fee. (The filing fee is a prerequisite to acceptance of the preliminary plat).

B. Filing Fee.

The preliminary plat shall be accompanied by the appropriate filing fee established by City Council, (Ord. 141.0). The Fair Oaks Ranch Public Works Department shall take no action on the plat until the filing fee has been paid. This fee shall not be refunded should the plat be disapproved or withdrawn.

C. Form and Content of Preliminary Plat.

The preliminary plat of a proposed subdivision must be made from an actual survey on the ground by or under the supervision of a Registered Professional Land Surveyor and bear his/her seal. The plat shall show or be accompanied by the following information:

1. The preliminary plat shall be drawn, on a scale of not more than one hundred (100) feet per inch, and shall include the entire tract intended to be developed. If two or more sheets are necessary, a key map showing the entire area shall be drawn showing the entire subdivision at a scale of four hundred (400) feet per inch on the first sheet, or on a separate sheet.
2. The name of the subdivision, which shall not duplicate the name of an existing or pending subdivision, or any of the physical features, (such as streets, parks, etc.,) must not be so similar in spelling or in pronunciation to the names of any similar features in Bexar, Kendall, or Comal County, or in any incorporated town or city therein, as to cause confusion.
3. A complete legal description by metes and bounds of the land being subdivided, including the name and location of adjacent subdivisions, watercourses on or adjacent to the proposed subdivision, and the property lines and names of the property owners in all adjoining unsubdivided tracts.
4. The names and addresses of owners of record.
5. A location map showing the relation of the subdivision to all adjacent streets.
6. The total acreage and total number of lots in the proposed subdivision.
7. Two-foot contour interval surveys tied to known reference points or USGS Benchmarks. Where conditions exist that make the use of two-foot contours impractical, alternate intervals may be used upon approval of the City Administrator.
8. The location of the City limit lines and extraterritorial jurisdiction line if either is contiguous to the subdivision boundary.
9. A number to identify each lot and each block, the approximate width and depth of each lot and the approximate area of the each [sic] lot.
10. The centerline of watercourses, creeks and existing drainage structures within and adjacent to the subdivision. Pertinent drainage data and the limits of areas subject to flooding shall be shown, delineating the 100-year flood limits if applicable.
11. The locations, dimensions and purposes of all recorded and proposed easements.

(Ordinance 26.5 adopted 12/16/04)

[12. Reserved.]

13. Tree Removal and Preservation Plan. The submittal shall conform to the requirements of Article III, Section 6 of this ordinance.

14. Open Space and Parkland Dedication. The submittal shall reflect the dedication of parkland in accordance with the requirements of Article III, Section 7 of this ordinance.

(Ordinance 26.7, sec. 2, adopted 5/17/07)

Section 2. PROCESSING OF PRELIMINARY PLAT

A. Staff Review.

City Staff will inspect the preliminary plat to verify that it conforms to all of the requirements of this ordinance. The Subdivider will be informed in writing by the City Administrator of any deficiencies in the preliminary plat.

B. Recommendation by the Fair Oaks Ranch Public Works Department.

The Fair Oaks Ranch Public Works Department shall conditionally recommend approval or disapproval of the preliminary plat at their next scheduled meeting on which a complete plat submission is received by the City Administrator. The Public Works Department's recommend [recommendation of] approval of the preliminary plat shall not constitute final acceptance of the final plat, but is authority to proceed with the preparation of the final plat. If any major changes are required by the Public Works Department, the Public Works Department may require submission of another preliminary plat.

C. Expiration of Plat Approval Recommendation.

The approval recommendation of the preliminary plat shall expire one year from the date of the initial recommendation.

Section 3. SUBMISSION OF FINAL PLAT

A. Procedures for Submission.

No final plat shall be considered unless a preliminary plat has first been submitted to and considered by the Fair Oaks Ranch Public Works Department. The final plat and accompanying data shall conform to the preliminary plat as conditionally recommended by the Public Works Department, incorporating any and all changes, modifications, alterations and corrections required by the Public Works Department. The Subdivider shall submit to the City Administrator the following at least 29 calendar days prior to the City Council's consideration of the final plat:

1. Four blue or black line copies of the final plat, plus one 8-1/2 x 11 black and white copy.
2. Three detailed sets of plans and specifications bearing the seal and signature of a registered professional engineer, together with detailed cost estimates of all subdivision improvements to establish the amount of the construction bond.

3. A digital file of the final plat in a format specified by the City Administrator.
4. Where a lot or lots in an existing subdivision are being resubdivided into two or more lots, or replatted such that an increase in the total number of lots results, a resubdivision plat shall be presented to the City Council. Approval by City Council may be considered only after a properly noticed public hearing.
5. A certificate from each tax collector of a political subdivision in which the property is located must accompany the plat to be recorded, showing that all taxes owing to the State, County, School District, City and/or any other political subdivision have been paid in full to date.
6. A letter of approval of each utility provider as to the adequacy and proper location of utility easements, such easements are to be shown on the subdivision plat.

B. Form and Content of Plat.

The final plat shall be drawn in India ink on tracing cloth, nylon or comparable substitute sheets, 18 inches by 24 inches, and to a scale of either one inch to 100 feet or one inch to 50 feet. Where more than one sheet is required, an index sheet of maximum size 18 by 24 inches shall be filed showing the entire subdivision, and all scales shall be uniform. The following information must be shown on or must accompany the plat:

1. Name of the subdivision, north arrow, the name of the land owner or owners, the name of the registered surveyor and/or engineer responsible for the preparation of the plat, scale, location map, total acres in the subdivision, and the location of the subdivision in reference to an original corner of the original survey of which said land is a part.
2. The plat must be certified to by a registered professional engineer that the proper engineering consideration has been given this plat of the matter of streets, lots and drainage layout. Such Standards are exclusively within the province of the City to determine.
3. The subdivision plat must be made from an actual survey on the ground by or under the supervision of a Registered Professional Land Surveyor and his certificate to the effect must appear on said plat. The plat must be certified to as to accuracy by the engineer or surveyor preparing the plat, showing in detail the location and width of existing and dedicated streets, lots and alleys, and similar facts regarding all property immediately adjacent thereto; also, the connections between the new and old subdivision(s).
4. The name of the proposed subdivision, or any of the physical features, (such as streets, parks, etc.) must not be so similar in spelling or in pronunciation to the names of any similar features in Bexar, Kendall, or Comal County, or in any incorporated town or city therein, as to cause confusion. Streets, which are a continuation of any existing street, shall take the name of the existing street.
5. Boundary lines must be shown by bearings and distances, calling for the lines of established surveys, landmarks, school districts and other data furnished sufficient to locate the property on the ground. All block corners and angles in streets and alleys shall

be marked with a 1/2 inch iron rod two (2) feet long, or with an appropriate concrete marker.

6. Unconventional layouts, or layouts that will cause unsatisfactory drainage conditions, or that will complicate maintenance of streets, or any land dedicated for public use, will not be accepted.

7. Lot and block lines, numbers of all proposed lots and blocks, dimensions for front, rear and side lot lines, and the street address of each lot shall be arranged in a systematic order and shown on the plat in distinct and legible figures. The length of blocks shall not exceed a maximum of approximately 1800 feet.

8. Locations of lots, streets, alleys, parks, easements and other features must be shown with accurate dimensions in feet and decimals of feet. Complete curve data (delta, arc length, radius, tangent, point of curve, point of reverse curve, point of tangent, long chord with bearing) between all lot corner pins.

9. A certificate of ownership and dedication to the City of all streets, easements, alleys, parks, playgrounds or other dedicated public uses, signed and acknowledged before a notary public by the owners and by any holders of liens against the land. The dedications must be absolute.

10. The plat shall show all natural drains and watercourses as they exist on the ground and if the tract to be subdivided contains more than 100,000 square feet, the plat shall show contour lines connecting points of equal elevation.

11. If applicable, the boundaries of the 100-year floodplain and floodway.

12. Subdivisions in an area having special flood hazards shall show on the plat a flood zone for that area which is subject to inundation by the 100-year flood.

13. Minimum slab elevations of all lots that fall within the 100-year floodplain.

14. Drainage courses shall be dedicated as Drainage Easements with a minimum width of 20 feet.

15. Appropriate dedication for public utilities must be provided where needed, either by absolute dedication, or by dedication of easement. Dedicated easements shall be maintained by the owner of the property upon which the easement is located; no structure of any type shall be placed on said easement and unrestricted passage must be maintained at all times.

16. Width of alleys shall be not less than 20 feet.

17. Adequate off-street parking space must be provided in business or commercial areas.

18. All residential streets shall have a minimum width of right-of-way of fifty (50) feet, minimum width of pavement (face of curb to face of curb) of thirty (30) feet, and must provide unhampered circulation through the subdivision. All Arterial or Collector streets shall have a minimum width of right-of-way of sixty (60) feet, minimum width of pavement (face of curb to face of curb) of thirty-six (36) feet.

19. Where a dead-end street is designed to be so permanently, a turnaround shall be provided at the closed end having an outside roadway diameter of eighty (80) feet and a street right-of-way diameter of one hundred (100) feet. Dead-end streets may be platted where the City deems desirable and where the land adjoins property not subdivided, in which case the streets shall be carried to the boundaries thereof. A temporary turnaround shall be built at the end of a street more than 400 feet long that will be extended in the future. The following note shall be placed on the plat: "Cross-hatched area is a temporary easement for turnaround purposes until the street is extended to the (direction) on a recorded plat."

20. Arterial, or main lateral streets, or setback lines, are to be provided where in the judgment of the City, they are necessary.

21. All streets to intersect at ninety (90) degree angles; where this is not possible, the intersection on the side of the acute angle must be cut back, as specified by the appropriate officials of the City but in no case shall the cut back be less than 25 feet.

22. In cases where the new streets as platted intersect with established streets, the new streets shall be, a continuation without offset of any intersecting street on the opposite side of said established street.

23. No street shall have an abrupt offset, or "jog".

24. Where streets in an adjoining subdivision dead-end at the property line of the new subdivision, the said streets shall be continued through the new subdivision, either on a straight line, or a curve, as provided elsewhere herein. Where no adjacent connections are platted, the streets in the new subdivision must be the reasonable projections of streets in the adjacent subdivided tracts. All streets in new subdivisions shall be platted so that a continuation of said streets may be made in other subdivisions in the future.

25. Where part of a street has been dedicated in an adjoining subdivision adjacent to and along the common property line of the two subdivisions, enough width of right-of-way must be dedicated in the new subdivision to provide the minimum width specified herein.

26. Squares, "islands," or other obstructions to traffic are prohibited within the right-of-way; small parts where the streets are properly curbed, or esplanades are permitted with the recommendation of the Public Works Department.

27. A space measuring 3 inches by 5 inches for the certificate of approval to be filled out by appropriate officials of the City of Fair Oaks Ranch provided on the plat.

Section 4. FINANCIAL GUARANTEES

In order to insure that all of the required improvements in the subdivision are constructed in accordance with the approved Plans and Specifications, and to guarantee that the improvements are maintained to the satisfaction of the City in a good state of repair for the period of one year after approval and acceptance, the owner shall file a Construction Bond, Maintenance Bond or other approved security, each executed by a surety company authorized to do business in this State, payable to the City of Fair Oaks Ranch, in the amounts to be fixed and determined as follows:

(Ordinance 26.5 adopted 12/16/04)

A. Construction Bond.

At least five working days prior to consideration of the final plat by the Fair Oaks Ranch City Council, the Subdivider may file with the City Administrator either an irrevocable letter of credit, a cash deposit, a savings assignment, or a performance bond, in an amount equal to the estimated cost of the utility, drainage and street improvements to be made in the subdivision by the Subdivider, including the cost of erosion control during construction. Such bond or other financial guarantee shall be for the faithful performance, installation and completion of such improvements. In the event any or all of the required improvements as constructed by the owner fail to meet the requirements of the specifications herein provided and are not accepted and approved by the City, and said owner fails or refuses to correct defects called to his attention in writing by the City, the unfinished improvements shall be completed at the cost and expense of obligee as said Construction Bond provides. The City Administrator shall be the final authority in affirming or denying the adequacy of the proposed Construction Bond. If the subdivider does not provide an irrevocable letter of credit, a cash deposit, a savings assignment, or a performance bond, for the improvements required herein, the city shall hold the approved plat and not allow recordation of the plat until all improvements are completed and accepted by the City. (Ordinance 2014-02 adopted 4/17/14)

B. Adjustment of Bond.

As soon as possible after approval of the final plat, but prior to the start of construction, the Subdivider shall provide the City Administrator an executed copy of the utility, drainage and street construction contracts or a notarized statement certifying the final contracts so that the City may substantiate the estimated cost of improvements. The construction bond/deposit shall be adjusted to reflect the actual construction costs.

C. Maintenance Bond.

Prior to final acceptance of the subdivision improvements by the City the Subdivider shall file with the City Administrator either an irrevocable letter of credit, a cash deposit, a savings assignment, or performance bond, in an amount equal to ten percent (10%) of the amount of the Construction Bond. The condition of said Maintenance Bond shall be that the owner shall guarantee to maintain, to the satisfaction of the City, all of the constructed improvements in a good state of repair for the period of one year from the date of such acceptance by the city. The Maintenance Bond by its terms shall provide that liability thereunder shall begin on any or all of the required improvements, or a portion thereof, and such liability shall remain in full force and effect for the period of one year from the date of the acceptance by the City. The City Administrator shall be the final authority in affirming or denying the adequacy of the proposed Maintenance Bond.

D. Each of said bonds shall provide that should the same be unenforceable as a statutory bond, the obligee shall be bound by their contract as a common law obligation.

E. The recovery on said Bonds shall not be limited or exhausted by one or more recoveries less than the total amounts of such bonds.

F. Periodic inspection will be made by the City during the period of liability covered by the Maintenance Bond and in the event any or all of said improvements are not being maintained in a good state of repair, the owner will be so advised in writing and if after a reasonable time he fails or refuses to properly maintain said streets and alleys, they shall then be maintained at the cost and expense of obligee as said Maintenance Bond provides.

Section 5. PROCESSING OF FINAL PLAT

A. Staff Review.

City Staff will inspect the final Plat and the Plans and Specifications to verify that the submittal conforms to all of the requirements of this Ordinance. The Subdivider will be informed in writing by the City Administrator of any deficiencies. Prior to final plat approval, City staff shall furnish the Fair Oaks Ranch Public Works Department a report concerning utility and street construction plans, bonding requirements and filing fees. When the Public Works Department is satisfied that all conditions and requirements have been met, the Public Works Department shall recommend approval of the plat at their next scheduled meeting.

B. Recommendation by the Fair Oaks Ranch Public Works Department.

The Fair Oaks Ranch Public Works Department shall recommend that City Council approve or disapprove the final plat, plans and specifications within 30 days of the date on which a complete final plat submission is received by the City Administrator. The Public Works Department's recommendation of the final plat, plans and specifications shall not constitute final plat approval, but is the authorization to present the plat, plans and specifications to the City Council for final approval. If any major changes are required by the Public Works Department, the Public Works Department may require submission of another final plat.

C. Approval by the Fair Oaks Ranch City Council.

The Fair Oaks Ranch Public Works Department shall forward its recommendation for approval or disapproval to the City Council for action at its next scheduled meeting. Final plats shall be considered filed with the City Council (The Municipal Approving Authority) on the date that the agenda is posted for the meeting that City Council shall initially consider approval of the final plat.

D. Disapproved Plat.

Should the final plat as submitted fail to meet the conditions of this ordinance, the City Council shall disapprove the plat and note its disapproval in the minutes of the City Council meeting.

E. Plat Filing.

The Subdivider shall file/record with the appropriate County the approved final plat and provide the City with two reproducible, recorded tracings of the recorded plat within 10 days of the City Council meeting at which the final plat is approved.

Section 6. VARIANCES

The City Council may grant a variance from the requirements of this ordinance when, in the City Council's judgment, undue hardship will result from requiring strict compliance. A variance may be granted only when in harmony with the general purpose and intent of this ordinance so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the Subdivider, standing alone, shall not be deemed to constitute undue hardship. In granting a variance, the City Council shall prescribe conditions that it deems necessary to or desirable in the public interest.

A. Findings Required for Variances.

In making the findings herein required, the City Council shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity. No variance should be granted unless the City Council makes affirmative findings as to all of the following:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his/her land;
2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;
3. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area; and
4. That granting the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this Ordinance.

B. Procedures for Variances.

The Subdivider shall submit to the City Administrator a written application for each variance, which is requested, along with the appropriate filing fee (Ord. 140.0) established by City Council. The City Council shall not consider any action on the variance request until this fee has been paid. The findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the minutes of the City Council meeting at which the variance is granted.

Section 7 FINAL SUBDIVISION ACCEPTANCE REQUIREMENTS

Prior to final acceptance by the City of completed improvements for maintenance, the Subdivider shall file the following with the City Administrator:

1. The required Maintenance Bond;
2. Three sets of certified "As Built" record drawing plans for each subdivision improvement;
3. A digital file of the "As Built" record drawing plans for each subdivision improvement in a format specified by the City Administrator; and
4. Two certified copies of all improvement costs, itemized as follows:
 - a. Streets, alleys, curbs, sidewalks and drainage features.
 - b. Water mains, valves, hydrants and services.
 - c. Sewer mains, lift stations, force mains, manholes and services.

Prior to acceptance of the subdivision improvements, the Subdivider shall provide the City with a release of lien from all subcontractors and contractors verifying that all contractors have been paid and that no liens will be filed on the subdivision. No acceptance shall be given until all verification is made.

No applications shall be accepted for building permits or utility connections, and no building permits shall be issued or utility connections made until such time as the entire subdivision is accepted by the City.

Section 8. AMENDED PLATS

The City Council of the City of Fair Oaks Ranch, Per Chapter 212.0065 of the Local Government code, hereby delegates the approval responsibility for amended plats to the City Administrator. This delegation does not grant authority to disapprove amended plats or to approve plats that increase the number of lots.

A. Processing of Amended Plat.

1. Submit all the required approvals and utility easement letters and two copies of the survey/plat by a registered engineer/surveyor to the City Administrator along with the required fee (Ord. 140.0). All items must be received by the 20th of the month to be placed on the next Fair Oaks Ranch Public Works Department agenda. The Public Works Department will not consider the amended plat request until all items are received.
2. Upon acceptance by Public Works Department, the engineer/surveyor must submit an original tracing of the amended plat to the City Secretary for proper signatures.
3. If the City Administrator should refuse to approve the plat, the plat shall be referred to the next scheduled City Council meeting. The City Administrator shall notify the submitter of the reasons for disapproval.

4. After the original tracing has been signed by the City Administrator, the engineer/surveyor must file, within 20 days, the tracing with the appropriate County Clerk for recording into the County records. The engineer/surveyor must furnish the City two reproducible copies of the amended plat containing the County Clerk's signature/seal showing that it has been recorded into the County Deed records and a digital file of the final plat in a format specified by the City Administrator.

Article III. Subdivision Design

Section 1. MINIMUM REQUIREMENTS

The design standards contained in this ordinance represent minimum standards considered necessary to insure good public health and safe development within the community. The design engineer and subdivider are required to meet or exceed these standards. Approval of plans and specifications by the City shall not be construed as relieving the design engineer and the subdivider of responsibility for compliance with this ordinance or with the requirements of other local, county or state authorities having jurisdiction. No preliminary plat or final plat shall be approved and no completed improvements shall be accepted unless they conform to the standards and specifications of this ordinance.

Section 2. GENERAL SUBDIVISION DESIGN

The design and layout of all new subdivisions shall be consistent and in harmony with the general development philosophy and culture of the surrounding subdivisions and the City as a whole. Subdivisions that clash with or obviously do not fit the culture of the existing neighborhoods are discouraged.

(Ordinance 26.5 adopted 12/16/04)

Section 3. LOTS

A. Minimum Lot Size.

All lots in a subdivision within the corporate limits of the City and outside the corporate limits of the City, but within the limits of its extraterritorial jurisdiction which are served by a Public Water and a Public Sewer system, shall have a minimum area of 8,400 square feet and a minimum street frontage of 70 feet, except that single-family residential lots fronting completely on the closed end (arc) of a cul-de-sac may have a minimum street frontage of 30 feet.

Lots in a subdivision within the corporate limits of the City and outside the corporate limits of the City, but within the limits of its extraterritorial jurisdiction which are served by either individual private wells and public sewer systems, or public water systems and private on-site sewage disposal systems, shall have a minimum street frontage of 150 feet and total lot area greater than 45,000 square feet.

Lots in a subdivision within the corporate limits of the City and outside the corporate limits of the City, but within the limits of its extraterritorial jurisdiction which are served by individual private wells and private on-site sewage disposal systems shall

have a minimum street frontage of 200 feet and total lot area greater than 217,800 square feet (5 acres).

(Ordinance 26.6, sec. 1, adopted 6/15/06)

B. Street access.

All lots subdivided under this ordinance shall front on a public or private street. Lots without direct street access are prohibited. Direct street access is defined as a common property line between the lot in question and the public or private street right-of-way line. Street access by means of an easement across another tract shall not be substituted for direct street access.

C. Flag Lots.

Flag shaped lots generally shall not be approved in any subdivision. Lots that have a long dimension (depth) greater than five times the lots street frontage (width) shall only be permitted with City Council approval.

Section 4. BLOCKS

Blocks shall be no longer than 1800 ft or shorter than 500 ft except for cul-de-sacs in areas to facilitate rational lot layout.

Blocks shall be wide enough to accommodate two rows of lots, except where the lots back up to a major street with no access by the lots.

Section 5. EASEMENTS

A. Dedication Required.

Where necessary to adequately serve a subdivision with public utilities, the subdivider shall dedicate or grant easements for poles, wires, conduits, drainage channels, storm sewers, sanitary sewers, water lines, and other utilities. These easements shall be at least 15 feet wide, except that where an easement contains multiple utilities and the City Administrator determines that a greater width is necessary, the Fair Oaks Ranch Public Works Department may require a minimum width of up to 20 feet.

B. Location of Easements.

The easements required under this Section shall be continuous for the entire length of the block. These easements shall parallel as closely as possible the street line frontage of the block. Easements may not straddle but may cross property lines, and they may cross lots other than along lot boundary lines, if in the opinion of the Fair Oaks Ranch Public Works Department such locations are needed.

C. Gates Required in Fences.

All fences crossing an easement shall have double swing gates to allow ready access to the easement. The minimum width of the opening shall be no less than 10 ft.

D. Overhang Easements.

Where utilities are not located in alleys, an overhang easement at least six feet wide must be provided on the opposing side of the 15-foot easement strip, at a height at and above 10 feet. In all alleys, overhang easements at least six feet wide must be provided on each side of the alley for electric and telephone lines, at a height at and above 10 feet.

E. Additional Easements for Guy Wires.

Where aboveground utility easements or alleys are not themselves straight within each block, or if they do not connect on a straight course with the utility easements or alleys of adjoining blocks, then additional easements shall be provided for the placing of guy wires on lot division lines in order to support poles set on the curving or deviating easement lines or alley rights-of-way.

(Ordinance 26.5 adopted 12/16/04)

Section 6. TREE AND HABITAT PROTECTION

A. It shall be unlawful for any person to remove, destroy, or cause the removal or destruction of any tree which is nine - inches (9") caliper in size or larger (protected tree) and which is located on an undeveloped tract of land within the city limits or extraterritorial jurisdiction (ETJ) without submitting a Tree Removal and Preservation Plan with the preliminary plat. City Council approval is required prior to removal of any tree which is twenty-four inches (24") caliper in size or larger (heritage tree). The tree caliper is to be measured at 4-1/2 feet above the ground.

B. If a tree has sustained damage which creates an immediate hazard to life or property the City of Fair Oaks Ranch City Administrator or a designee may approve the removal of such tree. It is not the intent of this section to require a tree removal permit to remove trees located on developed sites.

C. For new construction on a [an] undeveloped tract, a Tree Removal and Preservation Plan identifying the location, species, caliper and approximate canopy coverage of all healthy trees which are nine-inch caliper in size or larger when measured at 4-1/2 feet above the ground shall be submitted with the preliminary plat. The plan shall designate all trees proposed for removal and shall describe in detail the measures proposed to protect the remaining trees during the development of the property. The plan shall also reflect that all proposed tree removal will be done in accordance with the Oak-wilt prevention ordinance of the City. Following the City Administrator's review of the Plan the City Secretary shall forward the plan to the Public Works Department as part of the preliminary plat submittal.

D. The Public Works Department shall review and recommend approval of the Plan if:

1. The tree(s) is located within ten feet of the perimeter of, the proposed building footprint, the area over a septic tank, areas necessary for site access, or within areas designated for the construction or installation of public facilities such as streets or utilities or,
2. The application demonstrates that the denial of the request for tree removal will effect a hardship prohibiting the development of the property in otherwise compliance with the regulations of the City of Fair Oaks Ranch; and,

3. The application demonstrates that three (3) trees with a caliper of at least two and one half - inches (2.5") will be planted on the site or at another approved location for each tree removed that has a caliper of twenty-four - inches (24") or larger (heritage tree).

E. Protection of Trees During Construction - All protected trees next to an excavation site or to a construction site for any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four feet (4') high and surrounding the entire protected zone of the tree(s). The protection zone should be located a minimum of one foot per tree for each one-inch (1") average caliper of the tree - for example, ten feet [10'] from a tree with a ten-inch [10"] average caliper:

1. The barriers shall be approved by the City of Fair Oaks Ranch and shall be in place before any site clearance or other site-disturbing act commences.
2. All building material, dirt, excavation or fill materials, chemicals, construction vehicles or equipment, debris, and other materials shall be kept outside the barrier.
3. Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the Certificate of Occupancy.

F. The denial by staff of a Tree Removal and Preservation Plan may be appealed to the Fair Oaks Ranch City Council if the request for appeal is submitted by the 30th day of the month that the applicant is notified of the Plan denial. The appeal will be heard at the next regularly scheduled City Council meeting. The preliminary plat process will be postponed until the appeal has been heard and a decision rendered.

G. Exclusions - The proposed removal of *Celtis Occidentalis* (hackberry), Chinaberry, and *Ligustrum* are excluded from the requirements of this article [section]. The proposed removal of *Juniperis Ashei* (Common Cedar) and Mesquite which are eighteen inches (18") in caliper in size or smaller is also excluded from the requirements of this article [section].

(Ordinance 26.7, sec. 3, adopted 5/17/07)

Section 7. PRIVATE OPEN SPACE DEDICATION

A. Application - This Section shall apply to areas inside the City limits and the City's ETJ.

B. Suitable Sites; Area(s) Indicated on Submittals - The applicant shall give consideration to suitable sites for parks, playgrounds and other areas for private use so as to conform with the recommendations of this Ordinance relating to parkland development.

C. Any provision for private parks, trails, and open space areas shall be indicated on the preliminary plat, construction drawings, and final plat and, shall be subject to approval by the Fair Oaks Ranch City Council.

D. Suitable park sites include those that can be used for active recreation (such as playgrounds and areas for organized sports) and passive recreation (such as hiking and picnic areas). Suitable park sites do not include areas located in the flood way unless it meets regulatory requirements.

E. Generally - The City of Fair Oaks Ranch has determined that recreational areas in the form of private open spaces are necessary for the well being of the residents of the City and its ETJ. The City

has further determined that a reasonable connection exists between the subdivision of residential property and the need for additional private open space to serve new residents of the community. It is the intent of this Section, therefore, to require a reasonable method for the dedication of private open space for the use and enjoyment of the citizens of Fair Oaks Ranch and its ETJ.

F. Criteria for land dedication - All residential subdivisions, regardless of type, shall be required to dedicate suitable land for private open space in the amount of a minimum of one acre per 100 dwelling units in a subdivision. For purposes of calculating the ultimate number of dwelling units of the subdivision, the number shall be calculated based on the actual number of single-family, duplex, condos, and townhouse lots platted in the subdivision. Dwelling units on a multifamily zoned lot shall be calculated by utilizing the maximum number of units permitted by the multifamily zoning district.

G. Exemption from Dedication Requirements - Private open space dedication requirements shall not apply to either the subdivision of commercial or other nonresidential lots, or to the replatting of previously platted residential lots, where such lots were subject to private open space dedication requirements at the time of the prior subdivision.

H. Criteria for private open space dedication - Land dedicated for private open spaces shall be appropriate for the intended purpose. The following criteria shall apply to land proposed for private open space dedication:

1. At least 50 percent of the private open space that is required to be dedicated (based on the previously described calculation) shall be acceptable in terms of design, location, etc., for use as an area of active recreation.
2. Drainage ditches, detention ponds, power line easements, steep slopes and similar sites shall not be accepted for private open space dedication, unless the City of Fair Oaks Ranch and the accepting Homeowners Association finds that the land has exceptional recreational value that warrants its acceptance as private open space.
3. The dedication of land within the 100-year floodplain is acceptable, provided the land consists of the native floodplain that is unaltered by channelization or other man-made stormwater control facilities.
4. The subdivider shall provide written documentation indicating that the Fair Oaks Ranch Homeowners Association or the individual Homeowners Association has agreed to accept the area proposed for private open space dedication for ownership and maintenance. If a new Homeowners Association is being created in conjunction with the proposed subdivision, the subdivider must provide copies of the documents that will create the entity and that demonstrate the ability of the entity to own and maintain private open space.

I. Private Open Space Conveyance - Land proposed for dedication as private open space shall be designated on the preliminary and final plat and labeled as "Private Open Space." The acreage of the land included in the dedication shall also be shown on the plat. All land designated as private open space shall be included in a separate lot, or multiple lots, that are shown on the plat. The subdivider shall be obligated to survey corner markers at the corners of all parkland lots in accordance with the standards set forth in this ordinance. Prior to the Fair Oaks Ranch Homeowners Association or individual Homeowners Association acceptance of the private open space, the subdivider shall deliver a warranty deed to the Fair Oaks Ranch Homeowners Association or individual Homeowners Association conveying fee simple title of all private open space shown on the final plat.

J. Private Open Space Improvements - The subdivider shall be responsible for making any improvements requested by the Home Owners Association and approved by the City as a condition of acceptance prior to ownership conveyance by the subdivider. The improvements shall be consistent with the intended use of the private open space and the overall goals, policies and objectives of the Fair Oaks Ranch Homeowners Association, or individual Homeowners Association. During the platting of the subdivision, the subdivider is required to provide water and wastewater (if applicable) to the edge of the land proposed for dedication.

K. Public Open Space Dedication and Acceptance - Nothing in this Section shall prevent the City of Fair Oaks Ranch from accepting the dedication of open space land for public use if the dedication is voluntarily proposed by the subdivider and if the City Council agrees to accept the dedication.

(Ordinance 26.7, sec. 3, adopted 5/17/07)

Article IV. Streets

A. General Requirements.

1. All design and construction of streets, alleys, drainage facilities, and utilities must conform to the then current City of San Antonio Unified Development Code Article V, Sections 35-504, 35-505, 35-506 and sound engineering principles. Traffic-control and street name signs shall be installed by the Subdivider at all street intersections within or abutting the subdivision or as directed by the city. All such signs shall be installed in accordance with standards of the Texas Manual on Uniform Traffic-Control Devices.
2. Surface drainage from private property shall be taken to streets, alleys, or drainage courses as quickly as possible and that drainage water from streets and alleys be taken to defined drainage courses as quickly as possible. Using streets and alleys as major drainage courses is not permitted.
3. Minimum grades of streets and alleys shall be three-tenths of one percent (0.30%) and a maximum grade of ten percent (10%). Concrete or rock retards shall be installed in ditch lines in conformity with City of San Antonio Unified Development Code Article V, Sections 35-504, 35-505, 35-506 in areas where required by the City. Profiles of streets shall be furnished, showing existing centerline elevations, both right-of-way line elevations and proposed centerline grade. At creek or other drainage crossings where consideration must be given to the proper handling of stormwater, a profile of the flow line of such creek or other drain extending sufficient distance both upstream and downstream to determine proper street grade and size of drainage structure at such crossing is required.
4. Drainage structures of permanent type shall be provided at crossing of drainage courses with streets or alleys in order that a minimum of inconvenience and hazard to the traveling public will occur, and in order to minimize damage to and excessive maintenance of public property. Such drainage structures shall have minimum of thirty-six feet (36') clear roadway.
5. Open channels and ditches shall be constructed to proper cross-section, grade, and alignment so as to function properly, and without permitting destructive velocities.

6. All street sections shall include curbs, the base shall be installed with a minimum of an eight (8") inch thick, compacted flexible base material. Base material used for streets shall conform to the requirements of Texas Department of Transportation Standard Specification for Construction of Highways, Streets and Bridges, Item 247, Type A, Grade #2 Crushed limestone. The compacted base shall extend a minimum of 12 inches behind the back of curb. All returns shall have minimum radius of fifteen feet (15'). All curbs shall be constructed in accordance with current specifications of the City of San Antonio Unified Development Code Article V, Sections 35-504, 35-505, and 35-506.

7. The pavement shall be a minimum of one and one-half inch (1.5") (compacted) Texas Department of Transportation Standard Specification for Construction of Highways, Streets and Bridges, Item 340 Type D, Hot Mix Asphaltic Concrete.

8. Large or other desirable trees within the limits of the right-of-way and outside of the construction area shall be left and protected. Alleys shall be paved at least ten feet (10') wide. The finished centerline grade of alleys shall be enough lower than the abutting property to provide proper drainage.

9. The above specifications for construction of streets are based on the assumption that a flexible base with an asphalt pavement will be constructed in keeping with prevalent practice in this locality. The materials, design, specification and procedure shall conform to those of the City of San Antonio Unified Development Code Article V, Sections 35-504, 35-505, and 35-506 for similar construction. This also applies if a concrete pavement is used instead of the flexible base with asphalt pavement. Base material used for streets shall conform to the requirements of Texas Department of Transportation Standard Specification for Construction of Highways, Streets and Bridges, Item 247, Type A, Grade #2 Crushed limestone. Texas Department of Transportation Standard Specification for Construction of Highways, Streets and Bridges, Item 345, Grade #2 Asphalt Stabilized Base may be used in lieu of #2 flexible base. Before placing any material, the contractor shall furnish the City with reports of analysis of the proposed material made by an approved laboratory.

Article V. Drainage

Section 1. GENERAL REQUIREMENTS

A. Facilities Required.

The Subdivider shall provide an adequate storm drainage system to protect each lot throughout the subdivision from flooding. These drainage facilities may consist of a combination of natural features, swales, watercourse improvements, bridges and culverts, enclosed storm sewers and other man-made improvements to carry off stormwater within the subdivision. The system shall be integrated with the overall drainage system of the city, and the design of the system must be approved by the City Administrator in accordance with the requirements of this ordinance.

Section 2. REQUIRED DRAINAGE STUDY

The Subdivider shall submit a drainage study with the preliminary plat. The drainage study shall provide the following information, for both existing and fully developed conditions:

1. The entire watershed drainage area(s), depicted on a 7.5 minute series U.S.G.S. map.
2. The drainage area(s) within the subdivision, depicted on a topographic map with two-foot contour intervals.
3. Composite runoff factors.
4. Times of concentration.
5. Related rainfall intensity factors.
6. 25- and 100-year flood flow quantities with the 100-year floodplain limits for the existing and fully developed watershed shown on the preliminary plat.
7. Preliminary street grades sufficient to determine high points, low points, and direction of runoff flows.
8. Proposed locations of inlets, storm sewers and culverts.
9. Proposed routing of drainage ways.
10. All proposed drainage easements, including width of easement and configuration of channel.

The above information shall be supplemented with narrative text describing the watershed and the subdivision, the general soil conditions, downstream channel conditions, all weather access, and the presence of special flood hazard areas within the subdivision. The study shall be prepared by a professional engineer registered in the State of Texas. The drainage study shall be submitted along with the preliminary plat. The City Administrator shall review the submission, verify that all ordinance requirements have been met, and forward his recommendations to the Public Works Department.

Section 3. DRAINAGE EASEMENTS

A. General Requirements.

Natural waterways and channels should be used wherever practical to carry runoff. Any modifications to existing waterways and channels must be approved by the City Administrator. Where a subdivision is traversed by a watercourse, drainage way, natural channel or stream, an easement or right-of-way shall be provided conforming substantially to the 100-year floodway or channel limits of such watercourse, plus additional width to accommodate future needs.

B. Enclosed Systems.

Storm drainage easements of 15 feet minimum width shall be provided for existing and proposed enclosed drainage systems. Easements shall be centered on the systems. Larger easements, where necessary, shall be provided as directed by the City Administrator.

C. Use of Streets as Drainage Facilities.

Streets may be used for stormwater drainage only if the calculated stormwater flow does not exceed the height of the curb and the velocity does not exceed 10 feet per second. Residential streets and all other collector or arterial streets shall be designed on a basis of at least a ten-year storm frequency. Where streets are not capable of carrying stormwaters as required above, drainage channels or storm sewers shall be provided. Street width shall not be increased solely to accommodate drainage.

Section 4. FLOOD HAZARDS

A. General Policy.

All subdivisions shall conform to the "Flood Disaster Protection Act of 1973," Public Law 93-234, and the latest revisions thereof. The Flood Damage Prevention Ordinance as amended and policies as dictated by the Federal Emergency Management Agency shall be adhered to.

B. Floodplain Designations and General Restrictions.

Federal floodplains are based on a 100-year frequency discharge, and apply only in those areas where official Federal Emergency Management Agency maps have been prepared, or where 100-year water and surface profile studies are available for the City and its extraterritorial jurisdiction. Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted in an area having special flood hazards as defined by Article 2, Flood Damage Prevention Ordinance (Ord. 84.1) of the City of Fair Oaks Ranch, Texas, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not substantially increase the water surface elevation of the 100-year flood at any point within the City's jurisdiction.

C. General Requirements in Floodplains.

The minimum building slab elevation in the 100-year floodplain shall be two feet above the 100-year floodplain. The limits of the 100-year floodplain and the limits of the floodway shall be shown on the preliminary and final plats as applicable.

D. Access to Subdivisions.

The Public Works Department and City Council shall not permit new "island" subdivisions, lots or streets that would be surrounded by the floodwaters of the 100-year flood, unless:

1. The area is accessible to high ground by a street elevated above the 100-year flood level; or
2. The evidence presented shows that the surface area and elevation of the "island" is sufficient to sustain the residents safely during a 100-year flood.

(Ordinance 26.5 adopted 12/16/04)

Article VI. Water, Wastewater and Other Utilities

Section 1. GENERAL REQUIREMENTS FOR WATER SYSTEMS

A. Service Required.

The subdivider shall, at his sole cost and expense, provide domestic water service to each lot within a new subdivision from either Fair Oaks Ranch Utilities or another state approved community water system. Resubdivided lots in areas, which are currently being served by individual private wells, may be served with individual private wells with the approval of the Fair Oaks Ranch Public Works Department at preliminary plat approval. The water distribution system required under this section shall include all pumping station production facilities, elevated storage tanks, fire hydrants and other appurtenances required to adequately serve the area being subdivided.

The water system improvements required under this section shall include the extension of the water system including fire hydrants across the entire length (frontage) of all newly established lots adjacent to a public right-of-way.

(Ordinance 26.6, sec. 1, adopted 6/15/06)

B. Obligations of Subdivider.

The Subdivider shall install, at his own cost and expense, all necessary lift stations, booster pumps, mains and appurtenances, including, but not limited to, valves, manholes and fire hydrants. The Subdivider shall provide all water lines necessary to properly serve each lot of the subdivision and the new water facilities can supply the required demand for domestic use and for fire protection with adequate pressure. The Subdivider shall install all mains and shall extend the service to all lots terminating thereon with a curb stop and meter box. The Subdivider shall submit a certificate to the City Administrator certifying that the system has been designed in accordance with the requirements of the Texas Commission on Environmental Quality (TCEQ), and the rules of the Texas Insurance Commission.

Section 2. WATER SYSTEM DESIGN STANDARDS

All water production and distribution facilities shall be designed and sized to meet the minimum design standards of the Texas Commission on Environmental Quality (TCEQ), the design standards set forth in the Fair Oaks Ranch Utilities Water and Wastewater Capital Improvements Plan, and the San Antonio Water system standard Specifications for water and Sanitary Sewer Construction (October 2001).

Section 3. WATER MAINS

A. General Specifications.

Piping for water mains and connections shall be poly-wrapped ductile iron AWWA C151/C105 or Polyvinyl Chloride (PVC) AWWA C900, with either mechanical or single rubber gasket joints. All pipe and accessories shall be of new materials only.

B. Minimum Diameter.

Water mains smaller than eight inches inside diameter shall not be permitted, except that water mains less than 600 feet long and located solely in residential areas may be six inches inside diameter. No more than one fire hydrant shall be installed on any 6-inch water main.

C. Maximum Length.

In all areas, water mains shall be no longer than that length which would by fluid friction render the main incapable of producing the desired flows and pressures required for the type of area to be served.

D. Valve Locations.

The distribution system in all areas shall be equipped with a sufficient number of valves and the valves shall be so located that no case of accident, breakage or repair to the water distribution system mains will necessitate shutting from service a length of water main greater than either two sides of a single block or a maximum of 1800 feet. Sectionalizing valves shall be located such that no greater than one block will be out of water service at one time.

E. Service Lines.

Service lines of two inches or less shall be schedule 40 PVC. Service lines larger than two inches shall be copper, ductile iron AWWA C151/C105, or PVC AWWA C900. The minimum sizes of service lines that shall be used are as required in the following table:

Minimum Water Service Line Sizes

Number of Dwelling Units	Service Line Size (inches)
1	1
2 - 3	1-1/2
4 - 10	2

Section 4. FIRE HYDRANTS

A. General Requirements.

All extensions or additions to the City water distribution system within the subdivision must meet the requirements set forth in the current ISO Rating as promulgated by the Texas State Board of Insurance for the installation of fire

hydrants. All fire hydrants shall have a six-foot clear horizontal radius of 360 degrees around the fire hydrant. All fire hydrants shall be located on street corners, the end of cul-de-sacs or side property lines so as to be readily accessible at all times. All fire hydrants shall be equipped with at least a 6-inch valve located on the hydrant lead and the valve and hydrant shall be mechanically anchored to the main.

B. Maximum Spacing.

Every building in the City limits shall be within 500 feet of a standard City fire hydrant. In residential areas, hydrants shall be located so that there will be a fire hydrant every 500 feet average distance as measured along dedicated streets, including dedicated easements and fire lanes.

(Ordinance 26.5 adopted 12/16/04)

Section 5. SANITARY SEWERS

A. General Requirements.

The Subdivider shall, at his sole cost and expense, provide domestic sanitary sewer service to each lot within a new subdivision from either the Fair Oaks Ranch Utilities Wastewater collection system, or a TCEQ approved and permitted private sewage provider. Resubdivided lots in areas, which are currently being served by individual private sewage disposal systems, may be served with individual private sewage disposal systems with the approval of the Public Works Department at preliminary plat approval. The wastewater collection system required under this section shall include all pumping stations, forced mains, treatment facilities, and other appurtenances required to adequately serve the area being subdivided.

The sewage collection and disposal systems improvements required under this section shall include the extension of sanitary sewer mains to the boundaries of the subdivision as required to provide for the future extension of the systems into adjoining undeveloped areas.

The requirement for the subdivider to provide sanitary sewer service to each lot within the new subdivision shall not apply to subdivisions receiving City Council approval for private sewage disposal systems.

(Ordinance 26.6, sec. 1, adopted 6/15/06)

B. Obligations of Subdivider.

The Subdivider shall install, at his own cost and expense, all necessary lift stations, booster pumps, mains and appurtenances, including, but not limited to, services, manholes and cleanouts. The Subdivider shall provide all wastewater lines necessary to properly serve each lot of the subdivision and the new wastewater facilities shall have the capacity to transport all the wastewater produced from subdivision to the wastewater treatment plant. The Subdivider shall install all mains and shall extend the service laterals into all lots a distance sufficient to clear any and all other utilities and systems. The Subdivider shall submit a certificate to the City Administrator

certifying that the system has been designed in accordance with the requirements of the Texas Commission on Environmental Quality (TCEQ).

[Section 6. RESERVED]

Section 7. WASTEWATER SYSTEM DESIGN STANDARDS

A. General Design Standards.

All wastewater collection system improvements shall be designed and sized to meet the minimum design standards of the TCEQ, the design standards set forth in the Fair Oaks Ranch Utilities Water and Wastewater Capital Improvements Plan and the San Antonio Water system standard Specifications for water and Sanitary Sewer Construction (October 2001).

All sewers shall be sized to accommodate the maximum peak flow plus infiltration flows, which will render the pipe flowing no greater than three-fourths full. Minimum slope shall be according to current Texas Natural Resource Conservation Commission rules and regulations and sewerage design standards.

B. Sewer Location.

Sewer mains shall be located in the street right-of-way except where required otherwise to facilitate transport the wastewater to the treatment facility or a pump station.

The sewer shall not be closer horizontally than 10 feet, or closer vertically than six feet, to a water supply main or service line. Gravity sewer lines passing over water lines shall be constructed for a distance of at least 10 feet on each side of the crossing with cast iron pipe with no joints within three feet of the crossing, or they shall be encased in concrete in accordance with regulations of the TCEQ.

C. Materials.

Sewer lines shall be of PVC plastic, SDR 35/ASTM 3034, or another type pipe as approved in writing by the City Administrator.

D. Minimum Diameter of Mains and Services.

All sewer mains shall be a minimum of eight inches inside diameter. Service lines serving individual lots shall be no smaller than 6 inches inside diameter.

E. Manholes.

Manholes shall be spaced not more than 500 feet apart.

F. Lift Stations and Force Mains.

Lift station capacity shall be no less than 100 gallons per minute per pump. Lift station force mains shall be designed and sized to produce a complete exchange of wastewater every other cycle of the pumps. Force mains and fittings shall be of cast iron or PVC pipe, pressure class. The pipe shall have either mechanical joints or

rubber gasket joints. The minimum force main size shall be four inches. This Ordinance shall take effect immediately upon its passage, approval and publication as required by law.

(Ordinance 26.5 adopted 12/16/04)

SECTION 8. POWER AND COMMUNICATION UTILITIES

A. General Requirements.

The Subdivider shall, at his sole cost and expense, provide power and communication (electric, telephone and cable) to each lot within a new subdivision. The utility systems required under this section shall be installed underground within the subdivision and located in the street or in easements adjacent to the streets. The utility systems required under this section shall include all distribution conduits, junction boxes and other appurtenances required to adequately serve the area being subdivided.

The utility system improvements required under this section shall include the extension of utility systems to the boundaries of the subdivision as required to provide for the future extension of the systems into adjoining undeveloped areas.

(Ordinance 26.6, sec. 2, adopted 6/15/06)

Exhibit "A"

PLAT CERTIFICATES

Surveyor's Certificate:

STATE OF TEXAS

COUNTY OF (Insert County)

I hereby certify that this plat is true and correct and was prepared from an actual survey of the property made on the ground under my supervision.

Registered Public Surveyor

Sworn to and subscribed before me this the ____ day of _____, ____.

Notary Public in and for the State of Texas

Engineer's Certificate: An engineer's certificate is required in all cases except when the plat does not require engineering considerations:

STATE OF TEXAS

COUNTY OF (Insert County)

I hereby certify that proper engineering consideration has been given in this plat to the matters of streets, lots and drainage layout. To the best of my knowledge this plat conforms to all requirements of the Subdivision Ordinance.

Registered Professional Engineer

Sworn to and subscribed before me this the ____ day of _____, ____.

Notary Public in and for the State of Texas

Owner's Acknowledgment: If the owner authorizes an agent, the owner shall file a notarized letter to that effect:

STATE OF TEXAS

COUNTY OF (Insert County)

The owner of land shown on this plat and whose names are subscribed hereto, in person or through a duly authorized agent, dedicates to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places thereon shown for the purpose and consideration therein expressed.

Owner or Duly Authorized Agent

STATE OF TEXAS

COUNTY OF (Insert County)

Before me, the undersigned authority on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same for the purposes and considerations therein expressed and in the capacity therein stated. Given under my hand and seal of office this ____ day of _____, ____.

Notary Public in and for the State of Texas

Approval of the City Council:

This plat of ____ (name) _____ has been submitted to and considered by the City Council of the City of Fair Oaks Ranch, Texas, and is hereby approved by such Council. Dated this ____ day of _____, ____.

By: Mayor

By: Secretary

Approval of Amended Plats by the City Administrator:

This Amended plat of (name) has been submitted to and considered by the City Administrator of the City of Fair Oaks Ranch, Texas, and is hereby approved. Dated this _____ day of _____, ____.

By: City Administrator

By: City Secretary

EASEMENT NOTES

All properties designated as easements shall or may be utilized for the following purposes:

DRAINAGE EASEMENT

Drainage, water diversion, and sanitary control, including without limitation, walls, beds, embankments, spillways, appurtenances, and other engineered devices (the "Drainage System")

Together with the right of ingress and egress over the adjacent land to or from the Easement for the purpose of constructing, reconstructing, inspecting, patrolling, operating, maintaining, repairing, and removing the Drainage System; the right to change the size thereof; the right to relocate along the same general direction of the Drainage System; the right to create and/or dredge a stream course, refill, or dig out such stream course, establish or change stream embankments within the Easement, install storm sewer systems, culverts, water gaps, and protecting rails; the right to remove from the Easement all trees and parts thereof, or other obstructions, which reasonably endanger or may reasonably interfere with the efficiency of the Drainage System; and the right to place temporary structures for use in constructing or repairing the Drainage System.

With respect to the Drainage System, it is expressly agreed and understood by all parties hereto, that the intention is to improve conditions of sanitation and water drainage control on the Property for the benefit of the Property, adjacent property, and the community, but the City does not guarantee or warrant that such control work will be effective, nor does the City assume any additional liability whatsoever for the effects of flood, standing water, or drainage on or to the Property, or any other property or persons that might be affected by said stream, wash, or gully in its natural state or as changed by the City.

1. The property owner retains the right to use all or any part of the Easement for any purpose which does not damage, destroy, injure, and/or unreasonably interfere with the use of the Easement. However, the easement shall be kept clear of all structures or other improvements.

2. The City shall make commercially reasonable efforts to ensure that damage to the Property is minimized and the City will at all times, after doing any work in connection with the System, restore the Property to the condition in which the Property was found before such work was undertaken to the extent that such restoration is reasonable in accordance with the City's usual and customary practices.
3. The maintenance of the turf, grasses and landscape vegetation within the easement shall be the duty and responsibility of the property owner.

UTILITY EASEMENT

Utilities, including, without limitation, sewer, water, gas, electricity, telephone, and cable television, with all necessary and/or desirable lines, laterals and/or appurtenances thereto (the "Utilities")

Together with the right of ingress and egress over the adjacent land to or from the Easement for the purpose of constructing, reconstructing, inspecting, patrolling, operating, maintaining, repairing, and removing the Utilities; the right to place new or additional Utilities in the Easement and to change the size thereof; the right to relocate along the same general direction of the Utilities; the right to remove from the Easement all trees and parts thereof, or other obstructions, which reasonably endanger or may reasonably interfere with the efficiency or operation of the Utilities; and the right to place temporary structures for use in constructing or repairing the Utilities.

1. The property owner retains the right to use all or any part of the Easement for any purpose which does not damage, destroy, injure, and/or unreasonably interfere with the use of the Easement. However, the easement shall be kept clear of all structures or other improvements.
2. The City shall make commercially reasonable efforts to ensure that damage to the Property is minimized and the City will at all times, after doing any work in connection with the System, restore the Property to the condition in which the Property was found before such work was undertaken to the extent that such restoration is reasonable in accordance with the City's usual and customary practices.
3. The maintenance of the turf, grasses and landscape vegetation within the easement shall be the duty and responsibility of the property owner.

PLAT NOTES

FENCE NOTES

Gates Across Easement: Double swing gates shall be installed wherever fences cross Utility and Drainage Easements.

Obstructions of Drainage: Adequate structures shall be provided to allow the unhindered passage of all storm and drainage flows wherever fences cross Drainage Easements.

TAX CERTIFICATE

Tax Certificate Affidavit filed this date in Volume _____, Page _____, (Insert County) County Official Records.

IMPACT FEE ASSESSMENT

Assessment and collection of the City of Fair Oaks Ranch Water and Wastewater Utilities' impact fees shall be the amount per lot as set forth in City Ordinance No. ~~145.0~~, Section 1.8 A.

2014-18

(Ordinance 26.5 adopted 12/16/04)