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Farmersville
DISCOVER A TEXAS TREASURE

SUBDIVISION ORDINANCE
CITY OF FARMERSVILLE

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CITY OF FARMERSVILLE SUBDIVISION ORDINANCE

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Section 1 GENERAL PROVISIONS

1.1 AUTHORITY

- 1) This Ordinance is adopted under the authority of the Constitution and laws of the State of Texas, including Chapter 212 of the Texas Local Government Code.
- 2) The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City of Farmersville, Texas, also referred to herein as "this Ordinance". The City Council hereby extends the application of this Ordinance to the full extent of the extraterritorial jurisdiction of the City of Farmersville. This Ordinance shall be applicable to the filing of plats and the subdivision of land, as those terms are defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate limits of the City of Farmersville and its extraterritorial jurisdiction as those boundaries may be from time to time adjusted by annexation, disannexation, or otherwise. The City shall have all remedies and rights provided by Chapter 212 with regard to the control and approval of subdivisions and plats both within the City and within its extraterritorial jurisdiction.

1.2 PURPOSE

1.2.1 INTERPRETATION AND APPLICATIONS

In the interpretation and application of the provisions of this Ordinance, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City of Farmersville and its extraterritorial jurisdiction.

1.2.2 VALID GOVERNMENTAL FUNCTION

The subdivision of land is the first step in the development process. The distribution and relationship of residential, nonresidential and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors that influence and determine a community's quality of life and overall character. A community's quality of life is a matter of public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are intended to encourage the development of a quality municipal environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources.

1.2.3 INTENT OF STANDARDS

The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the City of Farmersville, Texas are intended to:

- 1) Promote the development and the utilization of land in a sustainable manner that assures an attractive and high-quality community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City of Farmersville;
- 2) Guide and assist property owners and applicants in the correct procedures to be followed, and to inform them of the standards which shall be required;
- 3) Protect the public health, safety and general welfare of the community by imposing standards for the location, design, class and type of streets, walkways (sidewalks), alleys, utilities and essential public services;
- 4) Assist orderly, efficient and coordinated development within the City's corporate limits and extraterritorial jurisdiction;
- 5) Provide neighborhood conservation and prevent the development of slums and blight;
- 6) Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;
- 7) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance thereby assuring that the cost of such required improvements is roughly proportionate to the impact of the development on the City's infrastructure;
- 8) Ensure the most efficient and beneficial provision of public facilities and services for each tract being subdivided;
- 9) Provide for compatible relationships between land uses and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;
- 10) Prevent pollution of the air, streams and bodies of water; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies, as well as natural resources and endangered or threatened plant and animal life; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- 11) Promote sustainability of development through the preservation of the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;
- 12) Establish adequate and accurate records of land subdivision;

- 13) Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;
- 14) Protect and provide for the public health, safety and general welfare of the community;
- 15) Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;
- 16) Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;
- 17) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;
- 18) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
- 19) Encourage the development of a stable, prospering economic environment.

1.2.4 MINIMUM STANDARDS

Minimum standards for development are contained in the City's Design Manuals and Standard Construction Details, the Zoning Ordinance, the Building Code, applicable articles of the Code of Ordinances, and in this Ordinance. However, the Comprehensive Plan and Future Land Use Plan express policies designed to achieve an optimum quality of development in Farmersville and its extraterritorial jurisdiction. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within this Ordinance, and shall be encouraged to exceed the minimum standards required herein.

1.3 APPLICATION OF REGULATIONS

1.3.1 FINAL PLAT APPROVAL REQUIRED

If land is required to be platted, no conveyance or sale of any portion or Lot of the property may occur until a final plat is approved by the City Council and recorded in the land records of Collin or Hunt County.

1.3.2 ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

No subdivision plat shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with this Ordinance and with other applicable City regulations (described in Subsection 1.3.C below). No building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until:

- 1) A final plat has been approved in accordance with this Ordinance; and
- 2) All improvements required by this Ordinance have been constructed and accepted by the City of Farmersville, or assurances for the completion of required improvements have been provided in accordance with Article VI of this Ordinance.

1.3.3 COMPLIANCE WITH PLANS AND REGULATIONS

Compliance with all City ordinances pertaining to the subdivision of land, and the Comprehensive Plan, shall be required prior to approval of any development application governed by this Ordinance. It is the property owners' responsibility to be familiar with, and to comply with City ordinances. Applicable ordinances and requirements include, but are not limited to, the following:

- 1) Comprehensive Plan, which includes the Future Land Use Plan, Thoroughfare Plan, and associated maps and plans;
- 2) Zoning Ordinance (**Ordinance No. _____, as amended**);
- 3) Applicable Chapters of the City's Code of Ordinances;
- 4) Design Manuals for Storm Drainage Systems, Water and Sanitary Sewer-Lines and Thoroughfares adopted by the City; and
- 5) Standard Construction Details adopted by the City.

1.4 JURISDICTION

1.4.1 JURISDICTION

The provisions of this Ordinance shall apply to the following forms of land subdivision and development activity within the City's limits and its extraterritorial jurisdiction:

- 1) The division of land into two or more tracts, lots, sites or parcels; or
- 2) All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City's subdivision regulations in Collin or Hunt County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
 - a. Annexation; or
 - b. Extension of the City's extraterritorial jurisdiction; or
- 3) The combining of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or
- 4) When a building permit is required for un-platted or improperly platted parcels for one of the following uses:
 - a. Residential single-family:
 - i. Construction of a new single-family dwelling unit; or
 - ii. Moving of a primary structure or a main building onto a piece of property; or
 - iii. Renovation or expansion of an existing main building in excess of 50% of the square footage of the current structure; or
 - b. Nonresidential and multi-family:
 - i. Construction of a new nonresidential or multi-family structure; or
 - ii. Additions to, or modification of an existing building in excess of 50% of its current size; or

- iii. Moving a primary structure onto a parcel of property; or
- c. For tracts where any public improvements are proposed; or
- d. Whenever a property owner proposes to divide land lying within the City or its extraterritorial jurisdiction into two or more tracts, and claims exemption from Subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots each of which parcels or lots are greater than five (5) acres in size, where each part has access and where no public improvement is being dedicated, he shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050. (See Section 2.11 of this Ordinance for requirements for development plats.)

1.5 EXEMPTIONS

1.5.1 EXEMPTIONS

The provisions of this Ordinance shall not apply to:

- 1)** Development of land platted and approved prior to the effective date of this Ordinance, except as otherwise provided for herein and for which no re-subdivision or replat is sought; or
- 2)** Development of land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of said tract, lot, site or parcel was filed of record in the Deed Records of Collin or Hunt County, Texas on or before the effective date of this ordinance, or
- 3)** Sale, inheritance, or gift of land by metes and bounds of tracts greater than five (5) acres in size, where each part has access and upon which no improvement is being dedicated, and no subdivision or alteration is occurring; or
- 4)** Existing cemeteries complying with all State and local laws and regulations; or
- 5)** Divisions of land created by order of a court of competent jurisdiction; or
- 6)** When a building permit is requested for un-platted or improperly platted parcels for one or more of the following activities:
 - a. Remodeling or repair of an existing primary structure which involves no expansion of square footage beyond the original structure; or
 - b. Construction of subordinate facilities such as fences and accessory buildings (as defined in the Zoning Ordinance); or
 - c. Moving a structure off a lot or parcel, or for demolition permits.

1.6 PENDING APPLICATIONS

1.6.1 REGULATORY REVIEW

All applications for plat approval, including final plats, that are pending on the effective date of this Ordinance and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this Ordinance. Notwithstanding the foregoing, a property owner may opt, at the owner's sole discretion, that such a plat be reviewed under this Ordinance.

1.7 INTERPRETATION; CONFLICT; SEVERABILITY

1.7.1 INTERPRETATION

In their interpretation and application, the provisions contained in this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

1.7.2 CONFLICT WITH OTHER LAWS

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in this Ordinance. To the extent that this Ordinance promulgates standards or imposes restrictions or duties which differ from those imposed by other City ordinances, rules or regulations, the regulations contained within this Ordinance the provision that is more stringent or imposes a higher standard shall control.

1.7.3 SEVERABILITY

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

1.8 SAVING PROVISION

This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of this Ordinance, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City except as shall be expressly provided in this Ordinance.

1.9 VARIANCES

1.9.1 VARIANCES

Where the City Council, after a recommendation from the Planning and Zoning Commission (Commission), finds that undue hardship will result from strict compliance with a certain provision(s) of this Ordinance, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, the City Council may approve a variance from any portion of these regulations so that substantial justice may be done and the public interest is secured, provided that the variance shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the City Council shall not approve a variance unless it shall make findings based upon the evidence presented to it in each specific case that:

- 1) Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the variance will not prevent the orderly subdivision of other property in the vicinity;
- 2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;
- 3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
- 4) The variance will not in any manner vary the provisions of the Zoning Ordinance or Comprehensive Plan or any other adopted plan(s) of the City; and
- 5) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a variance is considered. A variance from any provision of this Ordinance 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. Economic hardship to the property owner or developer alone shall not be deemed to constitute undue hardship or otherwise justify a variance from the requirements of this Ordinance.

1.9.2 CONDITIONS

In approving a variance the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.2.

1.9.3 PROCEDURES

A petition for a variance shall be submitted in writing by the property owner to the Commission before or contemporaneously with the plat or replat submitted for the Commission's consideration. The application

shall state fully the grounds for the variance, and all of the facts relied upon by the Applicant. The Commission shall hold a hearing on the requested variance from this Ordinance and after having heard from the Applicant and all other interested persons the Commission shall forward a recommendation regarding the requested variance to the City Council, together with the Commission's recommendation regarding the plat or replat. The City Council shall similarly hold a hearing on the requested variance from this Ordinance, and after public testimony and giving due consideration to the recommendation of the Commission, the City Council shall approve or disapprove the requested variance. The City Council shall also approve or disapprove the subject plat or replat in accordance with this Ordinance and the laws of the State of Texas.

1.10 WAIVERS FROM DEVELOPMENT EXACTIONS

1.10.1 WAIVERS FROM DEVELOPMENT EXACTIONS

It is the City's intent that any required development exactions shall be roughly proportional to the impact that any proposed development or redevelopment creates on the City's infrastructure and resources. The property owner or applicant for plat approval may file a petition for relief from a dedication or construction requirement that is applied or imposed as a condition of approval of a preliminary plat or final plat in accordance with the following procedures:

- 1) Petition for Relief** – The property owner or applicant must submit a written petition for relief to the City Manager at least 10 days prior to the Planning and Zoning Commission's consideration of a preliminary plat or final plat. The petition shall state the reasons for the waiver request and must indicate the dedication or construction requirements for which relief is being requested. An applicant may also submit a petition for relief from conditions of plat approval added by the Commission through its consideration of a preliminary plat or final plat. This petition must be submitted no later than 10 days following the Commission's action.
- 2) Consideration of Plat** – Upon filing an appeal, the applicant is thereby requesting the postponement of consideration of a pending plat application by the Planning and Zoning Commission, pending preparation of the study required by subsection 3 below, and completion of the appeal process, in which case the applicant shall also waive the statutory period for deciding plats for the time needed to decide the appeal by the City.
- 3) Study Requirements** – The city shall provide a study in support of the dedication or construction requirements. The petitioner may provide a study in support of the waiver request. The city's study shall include the following information:
 - a. Total capacity of the city's public infrastructure system or improvements to be dedicated to the city to be utilized by the proposed subdivision, employing standard measures of capacity and equivalency tables that relate the type of development proposed to the quantity of system capacity. If the proposed subdivision is to be developed in phases, such information shall be provided for the entire development.

- b. Total capacity to be supplied to the city's infrastructure system by the proposed dedication of an interest in land or construction of capital improvements.
- c. Comparison of the capacity of the city's public facilities system to be consumed by the proposed subdivision with the capacity to be supplied by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the city's public facilities system from the entire development shall be considered.
- d. The effect of any city participation in the costs of oversizing the capital improvements to be constructed.

1.10.2 CITY ENGINEER'S RECOMMENDATIONS

the City Engineer shall evaluate the petition and any supporting study provided by the petitioner and make a recommendation to the Planning and Zoning Commission based upon the city's study, any submitted petitioner's study and his/her own analysis. The City Engineer may utilize any reasonable methodology and information in evaluating the petition.

1.10.3 CONSIDERATION OF PETITION

Based upon the petition, any study submitted by the petitioner and the City Engineer's recommendation, the Planning and Zoning Commission shall make a recommendation to the City Council as to whether the application of the regulations for dedication or public improvements is roughly proportional to the nature and impact created by the development. The Commission, and subsequently the City Council in making its final decision, shall consider one of the following recommendations regarding the petition for relief:

- 1) Denial of the petition and imposition of the standard or condition requiring dedication or construction of capital improvements in accordance with the regulations contained within this ordinance.
- 2) Granting of the petition and waiver in whole or in part any dedication or construction requirement necessary to meet the criteria for approval.
- 3) Accepting alternative designs for the public infrastructure system or improvements to be dedicated to the city.
- 4) Delaying the imposition of the requirement until a future phase of development. If a delay is recommended, the future phase of development must be clearly defined.
- 5) Reduction in the applicant's cost of the dedication or construction requirement.

1.10.4 CRITERIA FOR APPROVAL

The City Council shall determine whether the application of the regulations requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such water, wastewater, roadway or drainage system, and reasonably benefits the development.

1.10.5 LAPSE OF PLAT APPROVAL

If relief is granted to the petitioner, it shall remain in effect for the time period specified in Section 2.7 for each type of plat, and shall end upon expiration of the plat. Plat approvals may be extended as provided in Section 2.7.

1.10.6 PLAT MODIFICATION

If a plat for which relief was granted is modified to increase the number of residential units or the intensity of non-residential uses, the City Engineer may prepare a new study to validate the relief. The petitioner may file for relief, and the new application and study shall be submitted and processed in accordance with this section.

1.10.7 EFFECT ON OTHER ORDINANCES

No waiver granted pursuant to this section shall waive any dimensional requirement of the City's Zoning Ordinance including but not limited to lot depth, lot width, lot area, lot coverage, setbacks, landscaping and buffers. Any waiver from the literal interpretation and application of the City's Zoning Ordinance shall be strictly governed by the City's Zoning Ordinance and state law. Additionally, a waiver granted pursuant to this Ordinance shall not relieve the property owner from compliance with any other statute, ordinance, rule or regulation imposed by the City, county, state or federal government upon the development of the subject property.

1.11 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

- 1) Addition -- A lot, tract or parcel of land lying within the City's corporate boundaries or extraterritorial jurisdiction which is intended for the purpose of subdivision or development.
- 2) Administrative Officers -- Any officer of the City of Farmersville referred to in this Ordinance by title, including but not limited to the City Manager, City Attorney, City Secretary, City Planner, Building Official and City Engineer shall be the person so retained in that position by the City, or his or her duly authorized representative. This definition shall also include engineering, planning, legal and other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.
- 3) Alley -- A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the rear or sides of properties otherwise abutting on a street. The length of an alley segment is to be

measured from the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts onto a street.

- 4) Amended or Amending Plat -- A revised plat correcting errors or making minor changes to the original recorded final plat, as authorized by Tex. Loc. Govt Code § 212.016.
- 5) Amenity -- An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.
- 6) Applicant -- A person who submits an application for an approval required by this Ordinance.
- 7) Application -- A written request for an approval required by this Ordinance.
- 8) Base Flood -- The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- 9) Block Length or Street Length -- For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street to the intersecting centerpoint of another street, or to the midpoint of a cul-de-sac. The through street referred to above shall not be a cul-de-sac, a dead-end street, or a looped street, but shall be a street which clearly has two points of ingress from two different directions.
- 10) Bond-- Any form of a surety bond in an amount and form satisfactory to the City.
- 11) Building Setback Line -- The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street right-of-way line, property line, a creek, or some other specific environmental feature.
- 12) Capital Improvements Program (CIP) -- The official proposed schedule, if any, of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.
- 13) City -- The City of Farmersville, Texas.
- 14) City Attorney -- The term City Attorney shall apply only to such attorney, or firm of attorneys, that has been specifically employed by the City to assist in legal matters.
- 15) City Council -- The duly elected governing body of the City of Farmersville, Texas.
- 16) City Engineer -- The term "City Engineer" shall apply only to such licensed professional engineer, or firm of licensed professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters.
- 17) City Manager -- The person holding the position of City Manager, as appointed by the City Council.
- 18) City Planner -- The term "City Planner" shall apply only to such practicing, professional land planner, or firm of professional land planners, that has been specifically employed by the City to assist in planning- and zoning- related matters.
- 19) Commission -- The Planning and Zoning Commission of the City.
- 20) Comprehensive Plan -- The phrase "Comprehensive Plan" shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council, including all its

revisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water and wastewater facilities, and other public and private developments and improvements.

- 21) Concept Plan -- A map generally showing all topography, trees, drainage patterns, existing utilities, existing infrastructure, etc. on which is superimposed a drawing of the overall conceptual layout of a proposed development, which shows the anticipated plan of development, and which serves as a working base for noting and incorporating suggestions of the City's administrative officers, the Commission, the City Council, and others who are consulted prior to preparation of the preliminary plat. A concept plan is also sometimes referred to as a "site plan" or a "land study".
- 22) ~~Construction Plat -- A Construction Plat is also known as a "Final Plat" approved by the City Council but not yet filed or recorded with the County and for which no infrastructure has been accepted by the City.~~
- 23) Contiguous -- Lots are contiguous when at least one boundary line or point of one lot touches a boundary line, or lines, or point of another lot.
- 24) Cul-De-Sac -- A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround or "bulb". The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.
- 25) Dead-End Street -- A street, other than a cul-de-sac, with only one outlet to another street.
- 26) Design Standards -- The City of Farmersville's technical construction standards and specifications for the construction of subdivision improvement, as published in the then current Manuals for the Design of Storm Drainage Systems, Water and Sanitation Sewer Lines and Thoroughfare Standards, as maintained and available for inspection at the City Hall.
- 27) Easement -- The word "easement" shall mean an area of joint use on private property.
- a. 1. Drainage or utility easements are areas upon which the City or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and other improvements or growths which in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems within said easements. The City and public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.
 - b. 2. Access easements are areas, which are open to the general public at large that shall remain at all times open to the public for access.
- 28) Engineer -- A person duly authorized and licensed under the provisions of the Texas Engineering Practice Act to practice the profession of engineering.

- 29) Engineering Plans or Drawings -- The maps or drawings accompanying a plat and showing the specific location and design of all changes and improvements to be installed in the subdivision in accordance with the requirements of the City as a condition of approval of the plat.
- 30) Escrow -- A deposit of cash with the City in accordance with this Ordinance.
- 31) Extraterritorial Jurisdiction (ETJ) -- all land situated, as classified by the Texas Local Government Code chapters 42, 43 and 212, in all directions from the corporate boundary of the city and its extensions, and which is not in conflict with the ETJ of another municipality, or with any duly executed boundary agreement with another incorporated municipality.
- 32) Final Plat (also Record Plat) -- The one official and authentic map of an as built subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a GPS control point, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references and showing all streets and lots, easements, dedications and other pertinent features as constructed on the ground and as accepted by the City. The final plat of any lot, tract or parcel of land shall be recorded in the land records of Collin or Hunt County, Texas following acceptance and approval by the City. An amended plat is also a final plat.
- 33) Governing Body -- The City Council of the City of Farmersville, Texas.
- 34) Improvement or Development Agreement -- A contract entered into by the applicant and the City, by which the applicant promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.
- 35) Land Study -- A Land Study is also known as a "Concept Plan".
- 36) Land Planner -- Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, nonresidential and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, or by actual experience and practice in the field of land planning.
- 37) Lot (also Lot of Record) -- A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.
- 38) Major Plat -- All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other City ordinance.
- 39) Major Subdivision -- This is the same as a "Major Plat".

- 40) Minor Plat** -- A subdivision of land resulting in four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or the extensions of municipal facilities.
- 41) Minor Subdivision** -- This is the same as a Minor Plat.
- 42) On-Site Facilities or Improvements** -- These are the existing or proposed facilities or improvements constructed within the property boundaries of the plat, and the existing or proposed facilities required to be constructed or improved immediately adjacent to the property that are needed to serve the development. Facilities and improvements include, but are not limited to, streets, alleys, water lines, sewer lines, storm drainage facilities, and curbs and gutters.
- 43) Off-Site Facilities or Improvements** -- Off-site facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat, and are not required to be constructed or improved immediately adjacent to the property to serve the development. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.
- 44) Overlength Street** -- A street segment, or a cul-de-sac or alley segment, which exceeds the maximum length allowed by this Ordinance, as measured along the centerline of the street from the intersection centerpoint of one through street, which shall not be a cul-de-sac or dead-end or looped street, to the intersecting centerpoint of another through street or, in the case of a cul-de-sac, to the midpoint of the cul-de-sac. For an alley segment, the measurement shall be to the right-of-way lines of the streets from which the alley is provided access, including any alley turnouts, or from the centerpoint of an intersection with another alley, which connects to a street.
- 45) Pavement Width** -- The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.
- 46) Perimeter Street** -- Any existing or planned street which abuts the subdivision or addition to be platted.
- 47) Person** -- Any individual, association, firm, corporation, governmental agency, political subdivision, or legal entity of any kind.
- 48) Planning and Zoning Commission** -- The duly appointed Planning and Zoning Commission of the City of Farmersville, Texas, in accordance with Section 211.007 of the Texas Local Government Code.
- 49) Plat** -- This means a preliminary plat, final plat, development plat, amended plat or replat, as determined by the context.
- 50) Preliminary Plat** -- The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, showing in plan view the proposed street and lot layout, easements, dedications and other pertinent features, with such notations as are sufficient

to substantially identify the general scope and detail of the proposed development, as well as its compliance with all requirements of the development codes of the City of Farmersville. Engineering plans for all public improvements shall be submitted along with the preliminary plat. The Preliminary Plat is subject to approval by the Planning and Zoning Commission and City Council.

- 51) Private Street -- A private vehicular access way, including an alley, that is shared by and that serves two or more lots, which is not dedicated to the public, and which is not publicly maintained. YY. Property Owner (also known as "Applicant" or "Subdivider" or "Developer"). Any person or firm, association, syndicate, general or limited partnership, corporation, trust or other legal entity, or any agent thereof, that has sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Ordinance. In any event, the term "property owner" shall be restricted to include only the owner(s) or authorized agent(s) of such owner(s), such as a developer of land sought to be subdivided.
- 52) Public Improvements -- Facilities, infrastructure and other appurtenances, typically owned and maintained by the City, which serve a public purpose in providing a needed service or commodity, such as wastewater collection and treatment and water storage and distribution, and which protect the general health, safety, welfare and convenience of the City's citizens, including efficiency in traffic circulation and access for emergency services. Required public improvements may include, but shall not be limited to, street and alley paving, including any necessary median openings and left turn lanes on major thoroughfares; water lines and pumping stations; sanitary sewer lines and lift stations; storm drainage structures and storm water management devices; water quality and erosion controls; screening and retaining walls; fire lane paving and fire hydrants; landscaping, where such is used for required screening or other required landscaped area, and associated irrigation system; and any required public sidewalks, street lights and street name signs. The term "public improvements" shall not include facilities or infrastructure of private providers of utility services other than water and wastewater, but shall be deemed to include facilities and infrastructure that the City would normally require of a development but which will be owned and maintained by an entity such as a homeowner's association, as in the case of private streets.
- 53) Record Plat -- A map, drawing or chart prepared according to the provisions of this chapter, and containing all engineering and legal data, dedications, and certificates necessary to the recording of same in the map and plat records of the county. A record plat may also be referred to as a final plat.
- 54) Replatting or Replat -- This is the re-subdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.
- 55) Right-of-Way -- A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, right-of-way may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and gas facilities, water and

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

- 56) ~~Rural Subdivision~~** -- ~~The division of any lot, tract or parcel of land into two or more lots or sites, each lot being one acre or larger, conforming to the area regulations for the Single Family 1 Dwelling District and bordering on a county road in the extraterritorial jurisdiction of the city. Development of the subdivision shall follow the requirements of this ordinance, except as hereinafter modified with regard to a rural subdivision.~~
- 57) Standard Street** -- A standard street is a street or road that meets or exceeds the minimum specifications in the City's standard street specifications, and which is constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan.
- 58) Street** -- A right-of-way, whether public or private and however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:
- a. 1. Major thoroughfares, also known as arterial streets or primary thoroughfares, which provide vehicular movement from one neighborhood to another or to distant points within the City, and including freeways or highways leading to other communities.
 - b. 2. Collector streets, also known as feeder streets or secondary thoroughfares, which provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.
 - c. 3. Local residential streets, also known as minor thoroughfares or streets, which primarily provide direct vehicular access to abutting residential property.
 - d. 4. Private streets are streets which are owned and maintained by a homeowner's association or property owners' association, and which are not dedicated to the public.
- 59) Street Improvements** -- This means any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare including, but not limited to, walkways (sidewalks), drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.
- 60) Street Length** -- This phrase means the same as Block Length.
- 61) Street Right-of-Way** -- The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.
- 62) Subdivision (also known as Addition)** -- A division or re-division of any tract of land situated within the City's corporate limits or its extraterritorial jurisdiction into two or

more parts, lots or sites, for the purpose, whether immediate or future, of sale, division of ownership, or building development. Subdivision includes the re-subdivision of land or lots which are part of a previously recorded subdivision.

- 63) Submission Date -- The submission date is when all necessary forms, fees, information, plans and copies have been submitted to the City, previewed, and deemed as complete by action of issuance of a fee receipt by the City.
- 64) Substandard Street -- An existing street or road that does not meet the minimum specifications in the City's standard street specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan.
- 65) Surveyor -- A licensed land surveyor or a registered public surveyor, as authorized by State statutes to practice the profession of surveying.
- 66) TCEQ -- Texas Commission on Environmental Quality (formerly TNRCC).
- 67) Temporary Improvements -- Improvements built and maintained by the property owner that are needed to remedy a circumstance that is temporary in nature, such as a temporary drainage easement or erosion control device, that will be removed upon completion of the subdivision or shortly thereafter.
- 68) Yard -- The open area between building setback lines and lot lines.

1.12 ENFORCEMENT, VIOLATIONS AND PENALTIES

1.12.1 VIOLATIONS

It shall be unlawful for any owner or agent of any owner to subdivide or plat any land into lots, blocks and streets or to sell property therein and thereby which has not been platted or subdivided in accordance with the Subdivision Ordinance. It shall be unlawful for any person to violate any term or provision of the Subdivision Ordinance.

1.12.2 PENALTIES

Any person, firm or corporation violating any of the provisions or terms of the Subdivision Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject to a fine not to exceed \$2000 or each offense. Each and every day such violation shall continue shall be deemed to constitute a separate offense.

1.12.3 CIVIL ENFORCEMENT

Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the city or within the city's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

Section 2 PLATTING PROCEDURES

2.1 IN GENERAL

2.1.1 CLASSIFICATION OF SUBDIVISIONS AND ADDITIONS

Before any land subdivision is filed for record with the County Clerk, the property owner shall apply for and secure City Council approval of the required subdivision plat, in accordance with the following procedures, unless otherwise provided within this Ordinance.

- 1) Minor subdivision plats may be approved for residential or nonresidential properties. Minor plat approval by the City Manager requires the submission of a final plat drawing and other submission materials required by Section 2.10 of this Ordinance. Lots may be conveyed or sold only after the plat has been approved by the City and the plat has been recorded with Collin or Hunt County.
- 2) Major subdivision plats may be approved for residential or nonresidential properties. The procedure for approval of a major subdivision typically involves three steps: a concept plan, preliminary plat and final plat. Sections 2.8 through 2.10 of this Ordinance provide the requirements for each submittal. Major plat approval shall be in accordance with Sections 2.4 through 2.6 of this Ordinance. All major subdivision plats must be reviewed by the Commission and approved by the City Council, pursuant to Sections 2.4 through 2.6 of this Ordinance. Upon completion of the required public improvements, or upon submission and City approval of the appropriate surety for required public improvements in accordance with Article VI below, the property owner may file the final plat in the land records of Collin or Hunt County. Lots may be sold only after the final plat has been recorded in the appropriate county. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the City Council and filed.
- 3) Replats may be approved, after public hearings before the Planning and Zoning Commission and City Council, in accordance with Section 2.12.

2.1.2 ZONING REQUIREMENTS

A property within the City's corporate limits that is being proposed for platting must be properly zoned as required for the proposed subdivision prior to submission of an application for approval of any plat. In addition, the proposed development layout or subdivision design shown on the proposed plat must be in conformance with all standards and requirements prescribed in the City's Zoning Ordinance.

Any plat submitted for approval by the City shall conform to and be in conformity with the City's Zoning Ordinance, if the property is located within the City's corporate limits, and, if the property is located within the City's corporate limits or extraterritorial jurisdiction, it shall conform to and be in conformity with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park, recreation, open space and thoroughfare plans.

2.1.3 PRE-APPLICATION CONFERENCE

Prior to formal application for approval of any concept plan or plat, the applicant and/or representatives shall request and attend a mandatory pre-application conference to become familiar with the City's development regulations and the subdivision process.

2.2 **OFFICIAL SUBMISSION DATE AND COMPLETENESS OF APPLICATION**

2.2.1 TIMING OF APPLICATION

A technically complete application for approval of any plat shall be submitted to the City at least sixteen (16) calendar days but no more than thirty (30) calendar days, prior to the Commission meeting at which the applicant desires the plat to be considered. The applicant may submit a technically complete application for approval of any plat more than thirty (30) calendar days prior to the Commission meeting only if the applicant voluntarily waives in writing the thirty (30) day requirement for action of Section 212.009 of the Texas Local Government Code. ~~If the applicant fails to voluntarily waive the thirty (30) day requirement in writing the plat shall be considered by the Commission at a different meeting date which occurs within the thirty (30) day requirement for action of Section 212.009 of the Texas Local Government Code.~~

For the purpose of these regulations, the official submission date shall be the date upon which a technically complete application for approval of any type of plat that contains all required elements mandated by Section 212.004(b) of the Texas Local Government Code and by this Ordinance is submitted to the City Manager, after which the statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed officially submitted until the City Manager determines that the application is technically complete and the applicant pays the prescribed application fees.

2.2.2 REJECTION OF INCOMPLETE APPLICATIONS

Plat applications that are not technically complete shall not be accepted for official submission by the City, and shall not be scheduled on a Commission or Council agenda until the proper information is provided to City officials.

2.2.3 EXPIRATION OF PERMIT APPLICATION

In accordance with Chapter 245 of the Local Government Code, a permit application expires on or after the 45th day after the date the application is filed if:

- 1) The applicant fails to provide documents or other information necessary to comply with the technical requirements relating to the form and content of the permit application;
- 2) The city provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and

- 3) The applicant fails to provide the specified documents or other information within the time provided in the notice.

2.3 FEES, APPLICATIONS FORMS AND PROCEDURES

2.3.1 FEES, POLICIES AND PROCEDURES

City Council shall establish a schedule of fees as required to recoup costs related to the administration of this ordinance. In addition to the requirements outlined herein for each type of development application, the City Manager is hereby authorized to maintain policies and procedures applicable to the submission and processing of applications including, but not limited to, application forms, compliance checklists, dedication language blocks for plats, tax certificate requirements and other similar items that must be used and submitted by the applicant(s).

2.4 SUBMISSION PROCEDURES AND CITY REVIEW PROCESS

2.4.1 SUBMISSION MATERIALS

The application shall include a written application form which bears the signature(s) of the property owner(s) of the subject property, along with the appropriate submission fee, (Inspection fees may be paid at the time the actual inspection is made of the project), copies of the plat in a size and format specified by the City, a copy of any applicable development agreement pertaining to the subject property (if any), and any other applicable information and materials deemed appropriate by the City. The City requires proof of land ownership prior to approval of any development application involving real property.

The application shall be accompanied by an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the subject property. Documentation shall also be included that shows there exists no delinquent assessments, fees, or other debts or obligations to the City and which are directly attributable to the subject property. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid at the time of submission for any application for approval under this Ordinance.

The application shall also be accompanied by an engineer's summary report which describes, in as much detail as necessary, the following: the overall nature and scope of the proposed development including, but not limited to, the following: the current approved zoning of the property, proposed use(s) and acreage of each proposed use, minimum lot sizes, widths and depths, number of lots to be created, and special amenities or facilities that will be included in the development; how the property will be served with required utilities and services; how storm water drainage will be handled; and, an itemization and description of any variance or waiver from the provisions of this Ordinance that will be sought.

If the proposed development will have access points onto a major thoroughfare, the application shall also include a letter from the appropriate governmental entity, such as TxDOT or Collin or Hunt, acknowledging and approving proposed driveway locations and corresponding median openings and left turn lanes, if applicable. Letters shall also be provided, together with the application, from each of the applicable utility service providers including water, wastewater, gas, electricity, telephone, cable TV and solid waste,

verifying their ability to provide an adequate level of service for the proposed development. The application shall also be accompanied by a letter from the Farmersville Independent School District that addresses the District's ability to accommodate the additional number of school-age children that will be generated by the proposed development, and that expresses any desire the District may have to obtain a future school site within any portion of the subject property.

All plat drawings and other corresponding plans and drawings, including engineering plans and landscape and screening plans, shall be submitted in a size, format and engineering scale as approved by the City, and in a format that will be acceptable for eventual filing at Collin County or Hunt County. The City may deny a hearing and any approval if the applicant does not submit the complete information and fees required by this Ordinance in a timely manner.

It shall be a violation of this Ordinance for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance in any plat application or during any public hearing or meeting of the Planning and Zoning Commission or City Council. Such a violation shall constitute grounds for denial of the plat.

2.4.2 REQUEST TO WAIVE 30 DAY REQUIREMENT

After the plat has been scheduled on an agenda (or at any time prior), the applicant may request, in writing, a waiver of the thirty (30) day approval requirement specified in Section 212.009 of the Texas Local Government Code, in order to allow more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City's regulations. After receipt of the request, the City may delay action on the final plat beyond thirty (30) calendar days following the official submission date.

2.4.3 SIMULTANEOUS SUBMISSION OF PLATS

In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in Section 2.9.4, the City Manager shall schedule both plat applications for action by the Commission within thirty (30) calendar days of the official submission date, unless the applicant has voluntarily executed a written waiver of the 30-day review period for one or both plats. If the preliminary plat has not received approval prior to consideration of the final plat by the Commission, then the Commission shall disapprove (deny) the final plat if not withdrawn by the applicant. The City Council shall take action on either one or both plat applications, as applicable, within thirty (30) calendar days of the Commission's action. Affirmation of, or minor modifications to, the Commission's recommendation to approve the plat(s) shall require a simple majority vote of the Council members present.

2.5 ACTION BY THE PLANNING AND ZONING COMMISSION AND CITY COUNCIL

2.5.1 PLANNING AND ZONING COMMISSION ACTION

The Planning and Zoning Commission shall review each plat application and, if in conformance with the provisions of this Ordinance and with all other applicable regulations of the City, it shall recommend approval or disapproval (denial) of the plat within thirty (30) calendar days of the official submission date. The authority to approve or disapprove concept plans is hereby delegated to the Commission.

2.5.2 CITY COUNCIL ACTION

The Council shall take action on plats within thirty (30) calendar days after the Commission's action. Affirmation of, or minor modifications to, the Commission's recommendation to approve the plat shall require a simple majority vote of the Council members present.

2.6 APPEALS

2.6.1 REASONS FOR DISAPPROVAL

If the Commission recommends disapproval (denial) of a plat application or denies a concept plan application, the Commission shall state such disapproval and the specific technical reasons therefore.

2.6.2 NOTICE OF APPEAL

The applicant or property owner may appeal the Commission's decision to the City Council by filing a Notice of Appeal in the office of the City Manager no later than ten (10) calendar days after the date upon which the Commission denied the application. Any appeal to the City Council shall not be considered a "filing" under Section 212.009 of the Local Government Code or any successor statute, and thus shall not require council action within thirty (30) days of the Commission's disapproval of the plat application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The Council shall consider the appeal at a public meeting no later than thirty (30) calendar days after the date upon which the Notice of Appeal was filed.

2.6.3 ACTION OF CITY COUNCIL

The Council may change the decision of the Commission by a three-fourths majority vote of the Council members present. The Council may also, where appropriate, remand the plat back to the Commission for reconsideration if it believes that there is a compelling reason to do so, such as the introduction of significant new facts or testimony. The City Council shall be deemed to have concurred in the disapproval or denial of any plat application that is disapproved or denied by the Commission until such time as the City Council specifically overrules the Commission's decision as provided herein.

2.7 LAPSE OF APPROVAL, REINSTATEMENT AND DORMANT PROJECTS

2.7.1 CONCEPT PLANS AND PRELIMINARY SITE PLANS

The approval of any concept plan or preliminary plat as required by the Ordinance, shall be effective for two (2) years beyond the date that the plat was approved by the Commission or Council, except as otherwise provided herein. On or before the second anniversary of Council approval of the plat, the applicant must have submitted an application for the next consecutive step in the platting process. If this next consecutive step is not accomplished, then the approved plat shall be deemed to have expired and shall become null and void.

2.7.2 FINAL PLATS

The approval of a final plat shall be effective for a period of two (2) years beyond the date that the plat was approved by the Commission and Council. If the required fees are not paid and the applicable site construction not commenced within this time period, the final plat shall expire and become null and void, unless such time period is extended or reinstated by the City Manager.

2.7.3 FILING OF FINAL PLATS

Following the acceptance of all improvements, the final plat shall be filed at Collin County or Hunt County at the City's earliest convenience. A filed final plat is valid in perpetuity, unless vacated or amended. Failure to file a final plat in a timely manner may be subject for withholding of building permits, certificates of occupancy and connection of City utilities.

2.7.4 LAPSE OF APPROVAL OF ENGINEERING PLANS

The approved engineering plans shall be valid for a period of one (1) year following approval by the City Engineer. The City Council may, upon written request by the applicant, grant an extension of approval for a time period no greater than one year, after which the engineering plans shall be subject to re-approval by the City Engineer if no construction has occurred.

2.7.5 EXTENSION AND REINSTATEMENT PROCEDURE

Prior to the lapse of approval for a plat, the property owner may petition the City to extend the plat approval. Such petition shall be considered by the City Council, and an extension may be granted by Council for a specific period of time. If no petition for extension of plat approval is submitted by the property owner prior to the expiration date, then the plat shall be deemed to have expired and shall become null and void. The property owner must thereafter submit a new plat application for approval, including applicable fees, and shall conform to the development regulations then in effect.

The City Council may extend the approval subject to additional conditions based upon newly enacted City regulations or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Council may also specify a shorter time for extension of the plat than the original two (2) year approval period.

2.7.6 DORMANT PROJECTS

Any plan or plat approved prior to May 11, 2004 without an expiration date and for which no progress had been made toward completion of the project.

2.7.7 RE-APPLICATIONS AND FEES

Should a development proposal or plat application lapse or expire, or should it be denied by the Commission or the Council, then that application ceases "pending" status and the project, and its corresponding series of development approvals and permits, shall be deemed to be ended, or "completed". Any re-application for any type of development approval for that property shall be

considered commencement of a new project, and shall be accompanied by new application materials, including new submission fees, and shall conform to all applicable City ordinances in effect at the time of submission of the new application.

2.8 CONCEPT PLAN

2.8.1 PURPOSE AND APPLICABILITY

The purpose of a concept plan is to allow the Planning and Zoning Commission to preview proposed major thoroughfare and collector street patterns; land use patterns and trends; environmental issues and constraints; conformance to the Comprehensive Plan, Future Land Use Plan, Thoroughfare Plan, water and sewer master plans, and other applicable plans of the City; and, if the subject property is within the City's corporate limits, the Zoning Ordinance; and the property's relationship to adjoining subdivisions or properties. Review of a concept plan also assists the City in evaluating the possible impacts of the proposed development in terms of provision of essential public facilities and services, respecting and preserving important natural features and the environment, provision of open space and recreational opportunities, and protecting the general health, safety and welfare of the community. **Concept plans may be used to separate large properties into parts for phasing site planning and development.** Submission and approval of a concept plan is the first step in the approval process for all residential or nonresidential development projects; **however, the City Manager may allow an applicant to initiate the subdivision process with a preliminary plat based on the size of the property and the nature of the proposed development.**

2.8.2 CONCEPT PLAN CONTENT

- 1) General – All plans must include the date of preparation, appropriate engineering scale, north arrow, vicinity map, and the names, addresses and telephone numbers of both the property owner and the individuals preparing the plans.
- 2) Site Features – The plan shall describe existing natural features such as contours at not less than two (2) foot intervals, trees over six inches (6) in caliper, drainage ways and other water features and physical improvements by including the following items:
 - a. The slope or grade of the property;
 - b. The location of creeks, rivers, washes, gullies, ponds, wells, lakes and wetlands in addition to any floodway and one hundred (100) year floodplain within the property;
 - c. The location of any groves or stands of trees or wooded areas including any majestic or historic trees;
 - d. Any places, natural features, or structures of local or historic significance; and
 - e. Any areas of existing impervious coverage and the location of any transitions from natural land to impervious surface.
- 3) Plan Layout – The concept plan shall include the following:
 - a. A metes and bounds description of the overall tract;
 - b. Conceptual representation of proposed use(s) and generalized representation of proposed improvements;

- c. Identification of all areas to be dedicated to the City or to have public easements, such as roadways, utilities, open space and drainage areas;
- d. General indication of how the proposed development will be able to achieve the required points for applicable design standards required in this ordinance;
- e. Location of all proposed screening between the site and adjacent property;
- f. Indication of each phase of development if separate phases are proposed; and
- g. The location of collector roadways proposed in the development, right-of-way widths, and the location of collector access points to abutting or adjoining streets and highways.

2.8.3 OTHER MATERIALS

Other material that may be required and submitted in support of the application:

- 1) Draft development agreement and any covenants, conditions, restrictions and agreements that govern the construction, use, maintenance and operation of roadways, parks, open space, drainage areas and facilities;
- 2) A preliminary geotechnical report that addresses soil, subsurface and slope conditions that may affect development;
- 3) A traffic study or traffic impact analysis, as determined by the City Engineer, showing the projects impact on roadway and intersection capacity; and
- 4) A development schedule indicating the approximate date on which construction is expected to begin and the rate of anticipated development to completion.

2.8.4 EXTENT OF AREA SHOWN

When the overall development project is to be developed in phases, the concept plan area shall include the entire property from which the phases are being subdivided and an approximate development schedule together with the projected sequence and timing of developing each such phase. Where significant natural or man-made features, such as existing thoroughfares or creeks, make inclusion of the entire property in the concept plan unnecessary to adequately review the items listed in the preceding paragraph, the concept plan may include a smaller study area. Boundaries such as existing major thoroughfares, creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller study area.

2.8.5 PLANNING AND ZONING COMMISSION REVIEW AND ACTIONS

The Commission may approve, approve with conditions or stipulations or deny for specific technical reasons any concept plan. The concept plan does not require review and approval of the Council.

2.8.6 CONCURRENT REVIEW

A concept plan may, with the approval of the City Manager, be submitted and reviewed concurrently with the preliminary plat for residential uses only. For nonresidential uses, the concept plan and the plat must be reviewed separately as changes to the concept plan may require amendments to the preliminary plat.

2.9 **PRELIMINARY PLAT**

2.9.1 PURPOSE AND APPLICABILITY

A preliminary plat allows the Commission and the City Council to evaluate the proposed plat for conformity with requirements and conditions identified at the time of concept plan approval and to evaluate construction plans for public improvements or to provide adequate security for construction of the same. A preliminary plat is required for all subdivisions prior to the construction of public improvements; however, the City Manager may allow an applicant to proceed to a final plat without filing of a preliminary plat based on the size and nature of the proposed development. If an applicant does not submit a preliminary plat, a facilities agreement in accordance with Section 5.5 must be submitted and approved by the City Council to guarantee the installation of required public improvements.

2.9.2 PHASING

The preliminary plat shall constitute only that portion of the approved concept plan which the applicant proposes to construct and record initially, provided however, that such portion conforms to all the requirements of this Ordinance and with any other applicable regulations and codes of the City.

2.9.3 INFORMATION REQUIRED UPON OR WITH PRELIMINARY PLAT

The proposed preliminary plat and associated engineering plans shall show the following information (detailed engineering information may be shown on a separate plan or document if approved by the City Engineer):

- 1) A vicinity, or location, map that shows the location of the proposed preliminary plat within the City (or within its ETJ) and in relationship to existing roadways;
- 2) Boundary lines, abstract or survey lines, corporate or other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearings and distances related to State Plane Coordinates and sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see Section 3.3 for specifications); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract or survey corner or existing subdivision corner shall be shown;
- 3) The plat shall also include a note describing the corner tie as required above and further tie at least one corner of the subdivision that is being developed or redeveloped to the

City's approved vertical control monumentation, the details of which monumentation are contained in Appendix 1 attached hereto and incorporated herein by reference for all purposes allowed by law; the Developer shall establish two (2) permanent monuments per development (at points approved by the City Engineer) that shall be tied to said vertical control monumentation; and, the boundary line description of the tract being subdivided shall close to an accuracy of one in ten thousand (1:10,000);

- 4) The name, location and recording information of all adjacent subdivisions (or property owners of adjacent un-platted property), including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot and block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent un-platted land shall show property lines, the names of owners of record, and the recording information;
- 5) The location, widths and names of all streets, alleys and easements (the applicant must coordinate with appropriate utility entities for placement of necessary utility easements and for location of all streets and median openings on highways or arterial roadways), existing or proposed, within the subdivision limits and adjacent to the subdivision. A list of proposed street names shall be submitted for all new street names (street name approval is required at the time the preliminary plat is approved);
- 6) The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains, gas mains or other underground structures, or other existing features within the area proposed for subdivision;
- 7) Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same; for nonresidential uses, the location and size of buildings (this information may be provided on a separate sheet, such as on a voluntary concept plan or preliminary site plan; see the Zoning Ordinance);
- 8) A title block within the lower right hand corner of the plat (and engineering plans) which shows the title or name under which the proposed subdivision is to be recorded, the name and address of the property owner and the name of the land planner, licensed engineer or registered public surveyor who prepared the plat or plans, the scale of the plat, the date the plat was prepared, and the location of the property according to the abstract or survey records of Collin County or Hunt County, Texas. The subdivision name shall not duplicate (or phonetically replicate) the name of any other platted subdivision in Farmersville or its ETJ unless required to identify separate phases of the development. The City may require a different subdivision name if there is potential for confusion by public safety officials or the general public;
- 9) Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses or for private facilities or amenities;

- 10) Scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;
- 11) Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to the City of Farmersville's approved vertical control monumentation contained in Appendix 1 or a subsequent control monument set as part of a development or re-development and approved for such use by the City Engineer;
- 12) Areas contributing drainage to the proposed subdivision shall be shown in the engineering plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;
- 13) All physical features of the property to be subdivided, including the location and size of all water courses, the 100-year flood plain according to Federal Emergency Management Agency (FEMA) information, any U.S. Army Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres of area draining into subdivisions, the outline of major wooded areas or the location of major trees, six inches (6) in diameter and larger when measured 4 feet above ground level, and other features pertinent to the subdivision;
- 14) Engineering plans of water and sewer lines and other infrastructure (including sizes) to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;
- 15) Proposed phasing of the development; where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the preliminary plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; the City Council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the City Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
- 16) Proposed or existing zoning of the subject property and all adjacent properties, as well as a tabulation of site development information and the intended manner of compliance with the Design Standards of the Zoning Ordinance including the required points for optional standards.
- 17) Minimum finished floor elevations of building foundations shall be shown for lots adjacent to a flood plain or within an area that may be susceptible to flooding;

2.9.4 CONCURRENT REVIEW

The applicant may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the City may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats, including full engineering plans and the appropriate assurances

for the completion of all improvements, as per Article VI, and provided that adequate review can be achieved by the City and Commission.

2.9.5 STANDARDS FOR APPROVAL

No preliminary plat shall be recommended for approval by the Commission or approved by the City Council unless the following standards have been met:

- 1)** The plat substantially conforms with the approved concept plan, or other studies and plans approved by the City, as applicable;
- 2)** The layouts and engineering plans for required public improvements and City utilities have been submitted by the applicant for approval by the City Engineer (whether specifically stated or not, preliminary plat approval shall always be subject to any additions or alterations to the engineering plans as deemed necessary by the Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and
- 3)** The plat conforms to applicable zoning and all other pertinent development regulations and the requirements of state and federal law.

2.9.6 EFFECT OF APPROVAL

Approval of a preliminary plat by the City Council shall be deemed general approval of the street and lot layout shown on the preliminary plat (approval for construction of the necessary streets, water lines, sewer lines, and other required improvements and utilities shall be authorized only through the City Engineer's approval of the engineering plans), and to the preparation of the final plat. Except as provided for herein, approval of the preliminary plat shall constitute conditional approval of the final plat when all conditions of approval and when all procedural requirements set forth in this Ordinance have been met.

2.9.7 ENGINEERING PLANS

Along with the preliminary plat application, the applicant shall submit complete engineering plans for streets, alleys, storm sewers and drainage structures, water and sanitary sewer facilities, screening and retaining walls, landscaping and irrigation, and any other required public improvements for the area covered by the preliminary plat.

The engineering plans shall also contain any plans deemed necessary to show or document compliance with the City's ordinances pertaining to non-point source pollution control, on-site sewage facility rules, and any other applicable codes and ordinances of the City that are related to development of a land parcel. Cost estimates shall also be submitted with the engineering plans. A complete sets of engineering plans shall include the following plans or sheets (generally in this order), as well as any additional plans or sheets deemed necessary and requested by the City Engineer:

- 1)** Cover or title sheet -- Preliminary plat
- 2)** Final site plan (for nonresidential and multi-family projects only - see the Zoning Ordinance for specific requirements and approval procedures) -- Existing conditions plan,

which shows existing topography, vegetation, tree inventory, existing natural and man-made physical features, etc. -- Grading, erosion control, and water quality control plans -
- Paving and storm drainage plans -- Utility plans for water, sanitary sewer, etc. -- Traffic control plans (if necessary) -- Screening and retaining wall plans -- Landscaping and irrigation plans

The City Engineer shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them Approved and shall return one set to the applicant. If not approved, one set shall be marked with the objections noted and returned to the applicant for correction, whereupon the applicants engineer shall correct the plans as requested and shall resubmit the corrected plans back to the City Engineer for re-review.

The applicant shall have engineering plans prepared by or under the direct supervision of a professional engineer licensed in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the City's Design Manuals and Standard Construction Details. All engineering plans submitted for City review shall be dated and shall bear the responsible engineer's registration number, his or her designation of "professional engineer" or "P.E.", and the engineers seal and signature. The City Engineer shall approve engineering plans when such plans meet all of the requirements of this Ordinance and the Design Manuals and Standard Construction Details.

Engineering plans shall be in conformance with the Design Manuals and Standard Construction Details and with the requirements set forth herein. Engineering plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, sidewalks, screening and retaining walls, landscape and irrigation plans (if appropriate), and other engineering details of the proposed subdivision shall be prepared at a legible scale and shall be submitted to the City Engineer (or designee) along with a copy of the preliminary plat of the subdivision.

As part of the engineering plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

Once the engineering plans are approved by the City Engineer, the property owner shall provide additional sets of the approved plans as required by the City Engineer, for use during construction. A full set of the City-approved engineering plans must be available for inspection on the job site at all times.

2.9.8 UTILITY COMPANY REVIEW

The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the preliminary plat and stating any requirements, including easements, they may have. This requirement may be deferred until the time of final plat submittal by the City Engineer.

2.9.9 TIMING OF PUBLIC IMPROVEMENTS

- 1)** Public improvements shall be installed and accepted by the city following approval of the preliminary plat and release of construction by the City Engineer. However, the City Engineer may permit all or some of the public improvements to be installed, offered for dedication, or accepted by the City after approval of the final plat by the City Council if there exists a compelling reason that is consistent with the public health, safety or welfare to do so (also see Article V).
- 2)** The City Council may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) must be approved by the City Council at the time of final plat approval, and the necessary assurances for completion of the improvements, in accordance with Article V, shall be a stipulation, or condition, of approval of the preliminary or final plat.
- 3)** If the City Council does not require that all public improvements be installed, offered for dedication, or accepted by the City prior to approval of the final plat, the applicant shall provide assurances or security for the completion of the improvements or escrowed funds, as provided in Article V and Article VI.

2.9.10 REVISIONS TO APPROVED PRELIMINARY PLAT

Minor revisions to the preliminary plat may be needed before the final plat can be filed of record. Such minor revisions as slight enlargement or shifting of easements or lot lines, addition of private or franchise utility easements, correction of bearings or distances, correction of minor labeling errors, addition of erroneously omitted informational items and labels, etc. may occur on the final plat without having to re-approve the preliminary plat. Major revisions, such as reconfiguration of lot lines or easements, relocation of driveways or access easements or fire lanes, any modification to the perimeter or boundary of the property, and relocation, addition or deletion of any public improvement (including corresponding easements), shall necessitate re-submission and re-approval of the plat as a revised preliminary plat. The procedures for such re-approval shall be the same as for a preliminary plat, and such re-approval may constitute a new project thus necessitating submission of a new application form, payment of new fees, and other requirements.

2.10 FINAL PLAT

2.10.1 PURPOSE AND APPLICABILITY

The purpose of a final plat is to record the subdivision of property including the accurate description of blocks, rights-of-way, easements, building lines and street names. A final plat shall be required for all subdivisions of property and the recording of single lots in accordance with Section 1.4. The final plat shall conform to the preliminary plat, as approved, and shall incorporate all applicable conditions, changes,

directions and additions imposed by the Planning and Zoning Commission and City Council upon the preliminary plat. The final plat shall not be submitted prior to approval of the preliminary plat (see Section 2.9.4 for exception).

2.10.2 INFORMATION REQUIRED ON A FINAL PLAT

The final plat shall contain all information that is required for a preliminary plat except that physical features of or on the land, such as topography, buildings, structures, water bodies and tree cover, shall not be shown on the final plat. The final plat shall also provide a place for the County Clerk of the respective county to stamp the date and location where the plat will be filed (i.e., Volume or Cabinet ____, Page or Slide ____) in the lower right-hand corner of the plat drawing, and conform to the standards of Collin County or Hunt County for filing of plats.

2.10.3 DEDICATION AND EASEMENT LANGUAGE

The final plat shall include formal irrevocable offers of dedication to the public of all streets local government uses, utilities, parks and easements, in a form approved by the City Attorney. The plat shall include any other applicable language, such as for drainage, floodway or other special types of easements, or such as for a private street subdivision, as deemed appropriate and necessary by the City Manager to protect the public health, safety and welfare.

2.10.4 STANDARDS FOR APPROVAL

No final plat shall be reviewed by the Planning and Zoning Commission or approved by the City Council unless the following standards have been met:

- 1)** The plat substantially conforms to the approved preliminary plat and other studies and plans, as applicable;
- 2)** The construction and installation of required public improvements and City utilities has been completed and the improvements have been accepted by the City as conforming to the City's regulations and design standards (or the proper assurances for construction of the improvements have been submitted and approved by the City, per Article V); and
- 3)** The plat conforms to applicable zoning, subdivision and other development related regulations, including the City's non-point source pollution control ordinance (Article 11.100 of the Code of Ordinances, as amended), on-site sewage facility rules (as applicable; Article 11.200 of the Code of Ordinances, as amended), and any other applicable codes or ordinances of the City that are related to development of a land parcel.

2.10.5 ACCEPTANCE OF IMPROVEMENTS

When all of the improvements are found to be constructed and completed in accordance with the approved plans and specifications and with the City's standards, and upon receipt by the City of Farmersville of a maintenance bond or certificate of deposit in accordance with Article V of this Ordinance from each contractor, "AS BUILT" plans, in the quantity and format required by the City, shall be submitted

with a letter stating the contractor's compliance with this Ordinance. After such letter is received, the City Engineer shall receive and accept for the City of Farmersville the title, use and maintenance of the improvements according to Section 5.8. The approved final plat shall not be filed with the County prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the City.

2.10.6 CERTIFICATE OF COMPLIANCE

Upon final approval of a final plat required by these regulations, the City Council shall issue to the person applying for approval a certificate stating that the final plat has been approved by the Council. For purposes of this section, final approval shall not occur until all conditions of approval have been met.

2.10.7 EFFECT OF APPROVAL

Approval of a final plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon completion of construction of all required improvements (or submission of the proper assurances for construction of same, per Article V) to submit the required documents, in a format acceptable to the County Clerk, of the plat for filing with Collin or Hunt County. Lots may be sold only when the final plat has been approved by the City Council and the plat has been filed. No conveyance or sale of any portion or lot of the property may occur until after the final plat is approved by the City Council and filed with the appropriate county.

2.10.8 FILING OF PLAT

Subsequent to acceptance of public improvements by the City Engineer, the applicant shall return copies of the final plat and a digital plat file, with any other required documents and necessary fees as specified by the City, to the City Manager. All necessary filing materials shall bear original signatures and seals. No plat or replat of a subdivision of real property shall be filed for record or have recorded in the county clerk's office a plat or replat unless the plat or replat has attached to it an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property. The City Manager shall secure the signatures of City of Farmersville authorities, and return the signed original plats to the applicant within (30) days of receipt. The applicant shall file the final plat at the office of the County Clerk of Collin County or Hunt County within thirty (30) calendar days following signature by the City. The applicant shall return to the City Manager both mylar and paper copies in the quantity and format specified by the City.

2.11 DEVELOPMENT PLATS

2.11.1 AUTHORITY

This Section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.

2.11.2 APPLICABILITY

For purposes of this Section, the term "development" means the new construction or the enlargement of any external dimension of any building, structure or improvement of any nature (residential or nonresidential). This Section shall apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:

- 1) The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein;
- 2) The development of any tract of land for which the property owner claims an exemption from the City's Subdivision Ordinance, including requirements to replat, which exemption is not expressly provided for in such regulations;
- 3) The development of any tract of land for which the only access is a private easement or street;
- 4) The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated.

2.11.3 EXCEPTIONS

No development plat shall be required, where the land to be developed has received final plat or replat approval prior to the effective date of this Ordinance. The City Council may, from time to time, exempt other development or land divisions from the requirements of this Section.

2.11.4 PROHIBITION ON DEVELOPMENT

No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this Section, until a development plat has been reviewed by the Commission, approved by the City Council, and submitted to the County for filing. Notwithstanding the provisions of this Section, the City shall not require building permits or otherwise enforce the City's Building Code in the City's extraterritorial jurisdiction in relation to any development plat required by this Section of the Subdivision Ordinance.

2.11.5 STANDARDS OF APPROVAL

The development plat shall not be approved until the following standards have been satisfied:

- 1) The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, utility plans and applicable capital improvements plans;
- 2) The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City's corporate limits) and the Subdivision Ordinance;
- 3) The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;
- 4) Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and

- 5) The proposed development conforms to the design and improvement standards contained in this Ordinance and in the City's Design Manuals and Standard Construction Details, and to any other applicable codes or ordinances of the City that are related to development of a land parcel and the requirements of state and federal law.

2.11.6 CONDITIONS

The City Council may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in Subsection 2.11.5 above.

2.11.7 APPROVAL PROCEDURE

The application for a development plat shall be submitted to the City in the same manner as a final plat (see Section 2.10), and shall be approved or denied by the City Council following review and recommendation by the Planning and Zoning Commission in a similar manner as a final plat. Upon approval, the development plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a development plat shall expire if all filing materials are not submitted to the City Manager and if the plat is not filed at the County within the time periods specified for a final plat.

2.11.8 SUBMITTAL REQUIREMENTS

In addition to all information that is required to be shown on a final plat (see Section 2.10), a development plat shall:

- 1) Be prepared by a registered professional land surveyor;
- 2) Clearly show the boundary of the development plat;
- 3) Show each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;
- 4) Show all easements and rights-of-way within or adjacent to the development plat; and
- 5) Be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.

2.12 REPLATTING

2.12.1 REPLAT REQUIRED

Unless otherwise expressly provided for herein, a property owner who proposes to replat all or any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by this Ordinance. All improvements shall be constructed in accordance with the same requirements as for a preliminary or final plat, as provided herein. The City Manager may waive or modify

minor requirements for a preliminary replat under certain circumstances where the proposed replat does not involve a large parcel of land or an existing structure or business on the subject property, and where the proposed plat revisions are relatively simple in nature. **A public hearing must be conducted by the Planning and Zoning Commission and City Council prior to consideration and action on a replat.**

2.12.2 REPLATTING WITHOUT VACATING PRECEDING PLAT

A replat of a subdivision or portion of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- 1)** Is signed and acknowledged by only the owners of the property being replatted;
- 2)** Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the Planning and Zoning Commission and by the City Council; and
- 3)** Does not attempt to amend or remove any covenants or restrictions imposed on the property in question.

2.12.3 ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS

In addition to compliance with Section 2.12.2, above, a replat without vacating the preceding plat must conform to the requirements of this Section if:

- 1)** During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
- 2)** Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

If a replat includes property that is subject to either of the foregoing conditions notice of the hearing required under Section 2.12.2 shall be given before the fifteenth (15th) day before the date of the hearing by:

- 1)** Publication in the City's officially designated newspaper or a newspaper of general circulation in Collin County; and
- 2)** By written notice, with a copy of Subsection 3) below attached, forwarded by the City to the owners of lots **within the original subdivision** that are within 200 of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision with the extraterritorial jurisdiction of the City, the most recently approved county tax roll of the property upon which the replat is requested. The notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
- 3)** If the proposed replat requires a variance, as defined in Section 1.9, and is protested in accordance with this provision the approval of the proposed replat will require the affirmative vote of at least three-fourths (3/4) of the members present of the Commission

or the City Council, or both. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the City prior to action by the Planning and Zoning Commission or the City Council, or both prior to the close of the public hearing. In computing the percentage of land area subject to the 20% rule described above, the area of streets and alleys shall be included. Compliance with this provision is not required if the area sought to be replatted was designated for other than single or duplex family residential use by notation on the last legally recorded plat or in the last legally recorded restrictions applicable to the plat.

2.12.4 ADDITION OR DELETION OF LOTS

Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots sought to be changed.

2.12.5 ADDITIONAL REQUIREMENTS

- 1)** If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, a public hearing is not required for a replat of the area vacated.
- 2)** The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.
- 3)** The title shall identify the document as a Final Plat of the _____ Addition, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the _____ Addition, an addition to the City of Farmersville, Texas, as recorded in Volume/Cabinet _____, Page/Slide _____ of the Records of (the appropriate) County of Record, Texas.
- 4)** An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.1.
- 5)** The replat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a replat shall expire if all filing materials are not submitted to the City, and if the replat is not filed at the County within the time periods specified for a final plat.

2.13 AMENDING PLATS

- 1)** An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing

that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.1.

- 2) The City Manager may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is solely for one or more of the following purposes:
- a. Correct an error in a course or distance shown on the preceding plat;
 - b. Add a course or distance that was omitted on the preceding plat;
 - c. Correct an error in a real property description shown on the preceding plat;
 - d. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - e. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - f. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - g. Correct an error in courses and distances of lot lines between two adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - h. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - i. Relocate one or more lot lines between one or more adjacent lots if:
 - i. The owners of all those lots join in the application for amending the plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots;
 - j. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - i. The changes do not affect applicable zoning and other regulations of the City;
 - ii. The changes do not attempt to amend or remove any covenants or restrictions; and
 - iii. The area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area;
 - k. Replat one or more lots fronting on an existing street if:
 - i. The owners of all those lots join in the application for amending the plat;

- ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots; and
 - iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- 3) The City Manager may, at his or her discretion and for any reason, elect to present the amending plat to the Planning and Zoning Commission and City Council for consideration and approval. The City Manager is not authorized to disapprove an amending plat and shall refer any amending plat which the City Manager refuses to approve to the Commission and the City Council for consideration within the time period required by State law.
- 4) Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- 5) The amended plat shall be entitled and clearly state that it is an "amended plat." It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- 6) Other than noted above, the procedure for approval of plat amendment(s) shall be the same as in Section 2.12.
- 7) The amending plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of an amending plat shall expire if all filing materials are not submitted to the City Secretary, and if the plat is not filed at the County within the time periods specified for a final plat.

2.14 PLAT VACATION

2.14.1 BY PROPERTY OWNER

The property owner of the tract covered by a plat may vacate, upon review by the Commission and approval by the City Council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the City, upon request).

2.14.2 BY ALL LOT OWNERS

If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

2.14.3 CRITERIA

The Planning and Zoning Commission shall review, and the City Council shall approve, the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local

Government Code (as amended), and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the City Council may direct the petitioners to prepare and seek approval of a revised final plat in accordance with this Ordinance such that the property does not become un-platted.

2.14.4 EFFECT OF ACTION

On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission's and Council's action on the plat vacation, the property owner will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the City Council.

2.15 MINOR PLATS

2.15.1 GENERAL REQUIREMENTS

A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required submission fee, and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 2.4.

2.15.2 APPLICABILITY

An application for approval of a Minor Plat may be filed only in accordance with state law, when all of the following circumstances apply:

- 1) The proposed division results in four (4) or fewer lots;
- 2) All lots front onto an existing public street and the construction or extension of a street is not required to meet the requirements of this Ordinance; and
- 3) Except for right-of-way and easements, the plat does not require the extension of any municipal facilities to serve any lot within the subdivision.

2.15.3 ADDITIONAL REQUIREMENTS

Private wells and private wastewater treatment facilities shall be considered adequate when existing public water and wastewater lines are not within five hundred (500) feet of the proposed lots.

2.15.4 CITY MANAGER ACTION

The City Manager may approve a minor plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities, or may, for any reason, elect to present the minor plat to the Planning and Zoning Commission and City Council for consideration and approval. The City Manager is not authorized to disapprove a minor plat and shall refer any minor plat which the City Manager refuses to approve to the Planning and Zoning Commission and/or City Council for consideration within the time period required by State law.

2.15.5 TITLE

The minor plat shall be entitled and clearly state that it is a "minor plat."

2.15.6 FILING OF MINOR PLAT

The minor plat shall be filed at the County in the same manner as prescribed for a final plat, and approval of a minor plat shall expire if all filing materials are not submitted to the City and if the plat is not filed at the County within the time periods specified for a final plat.

Section 3 SUBDIVISION DESIGN STANDARDS

3.1 ADEQUATE PUBLIC FACILITIES POLICY

The land proposed for subdivision must be adequately served by essential public facilities and services. These services include street access, water, waste water disposal and off-site drainage. No plat or replat may be approved unless it conforms to this policy and its standards. This policy may be further defined and supplemented by other ordinances adopted by the city. There is an essential nexus between the demand on public facilities systems created by a new development and the requirement to dedicate rights-of-way and easements and to construct capital improvements to offset such impacts.

- 1) Street Access – All platted lots must have direct access to a public street or roadway, private street or an approved public way.
 - a. Except for lots which gain access from an approved cul-de-sac, all subdivisions must have two means of access or approach, which must be connected via improved roadways to the city's improved thoroughfare and street system. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the city may accept a temporary street connection, or a median divided street or entry to satisfy this requirement. Requirements for dedication of rights-of-way and improvement of approach roads may be increased depending upon the size or density of the proposed development, or if such need is demonstrated by a traffic impact analysis.
- 2) Water – All platted lots must connect to an approved water system which is capable of providing water for health and emergency purposes.
 - a. Except for lots along an approved cul-de-sac, all lots must be provided service connections from a looped water main providing water flow from two directions or sources.
 - b. Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission on Environmental Quality (TCEQ).
 - c. Water service must be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the city's Fire Chief.
 - d. The city may accept development phasing, development restrictions, and/or the construction of improvements to maintain adequate fire protection.
- 3) Waste Water – All platted lots must be served by an approved means of waste water collection and treatment.
 - a. On-site waste water treatment systems, and on-site pretreatment of industrial waste, are permitted only with approval of the City and the appropriate authority in Collin or Hunt counties.
 - b. The projected waste water discharge of a proposed development shall not exceed the capacity of the waste water system.

c. The city may accept the phasing of development and/or improvements to the system so as to maintain adequate waste water capacity.

- 4) Drainage – Increased stormwater runoff attributable to new development must not exceed the capacity of the downstream drainage system or adversely affect adjoining property. Where the projected runoff would exceed capacity, the city may accept the phasing of development, the use of control methods such as retention or detention, and/or the construction of offsite drainage improvements as a means of mitigation.

3.2 BLOCKS AND LOTS

3.2.1 BLOCKS

The length, width and shapes of blocks shall be determined with due regard to:

- 1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- 2) Zoning requirements as to lot sizes, setbacks and dimensions.
- 3) Needs for convenient access, circulation, control and safety of street traffic and for pedestrians or bicyclists traveling to a public park or school site within the neighborhood.
- 4) Intersecting streets shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision or topographical constraints control, block lengths shall not exceed one thousand two hundred (1,200) feet in length. Where no existing subdivision or topographical constraints control, the block lengths shall not be less than three hundred (300) feet in length. Cul-de-sacs shall not exceed 600 feet in length. However, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased in accordance with the variance procedures set forth in Section 1.9.

3.2.2 LOTS

Lots shall conform to the minimum requirements of the established zoning district.

- 1) Each lot shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this Ordinance (see Section 3.6). Lot width and access shall conform to the provisions of the City of Farmersville's Zoning Ordinance, Comprehensive Plan, and any other applicable City code or ordinance. Lot access onto highway, arterial and collector streets is subject to approval by the City Council, which may require a traffic study or other information prior to approval of the preliminary plat in order to fully study all access issues. In all cases, lots shall meet the minimum frontage requirements in Subsection 6 below.
- 2) Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district, and shall provide a reasonable

building pad without encroachment into front, side or rear yard setbacks or into any type of easement. Also, the rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when alleys are present. In general, triangular, severely elongated or tapered, flag or panhandle lots shall be avoided, and the City reserves the right to disapprove any such lot which, in its sole opinion, will not be suitable or desirable for the use intended.

- 3) Side lot lines shall be at ninety-degree angles or radial to street right-of-way lines to the greatest extent possible. The City reserves the right to disapprove any lot which, in its sole opinion, is shaped or oriented in such a fashion as to be unsuitable or undesirable for the use intended, or which is not attractively or appropriately oriented toward its street frontage.
- 4) Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials, as defined in Section 3.4, or to overcome a specific disadvantage or hardship imposed by topography or other factors. Where lots have double frontage, building setback lines shall be established for each street side, and rear yard screening shall be provided in accordance with Section 3.11. Residential lots shall not back onto any residential street or collector street within a residential area or neighborhood.
- 5) Building Lines -- Front and street side building lines shall be shown on a concept plan and on any type of plat for all lots, and shall be consistent with the Zoning Ordinance requirements for the district in which the development is located, if subject to the City's zoning regulations and with any other applicable City ordinance.
- 6) **Frontage on Public Streets and Cross Access--** The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum thirty (30) feet of frontage on a dedicated street and, except in the Central Area zoning district, each multi-family and non-residential lot shall have a minimum of one hundred (100) feet, or as required by the applicable zoning ordinance, unless other provisions have been authorized through planned development approval or the grant of a variance. When adjacent to an existing or planned median divided street, all lots shall have access to a median opening, either directly or through a shared cross access easement between it and adjacent properties.

3.3 MONUMENTS

3.3.1 PLACEMENT OF MONUMENTS

In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than five-eighths inch (5/8) in diameter and twenty-four inches (24") deep, and set six inches (6) below the ground surface. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (1/2) and eighteen inches (18) deep, and set flush with the top of

the ground. In addition, all curve points in right of way lines shall be monumented by 5/8 diameter rods, twenty-four inches (24) deep, set six inches (6) below the ground surface. Each block corner monument shall include a cap with the surveyor's name and registration number attached to it. All block corners shall be installed prior to the final inspection of the subdivision by the City. Lot corners shall be installed prior to issuance of a building permit.

3.3.2 VERTICAL CONTROL

At least one corner of a subdivision that is being developed or re-developed within the City's corporate limits or ETJ shall be tied to the City's approved vertical control monumentation. Details regarding the City's vertical control monumentation are contained in Appendix 1 attached hereto and incorporated herein by reference for all purposes allowed by law. The Developer shall also establish two (2) permanent monuments per development (at points approved by the City Engineer) that shall be tied to the City's approved vertical control monumentation.

3.4 STREETS AND ALLEYS

3.4.1 STREET DESIGN

The arrangement, character, extent, width, grade, location and construction of all streets shall conform to the City of Farmersville's Thoroughfare Plan as well as the Design Manual and Standard Construction Details, and shall be considered in their relation to existing and planned streets or driveways (whether within the City of Farmersville, within its ETJ area, or within adjacent municipal or County areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such strips of land are required by the City in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with the City's Design Manual and Standard Construction Details.

3.4.2 ALLEYS

No alleys shall be required. If provided or constructed by the developer, alleys shall conform to the adopted Design Manual and Standard Construction Details.

3.4.3 ADEQUACY OF STREETS AND THOROUGHFARES

- 1) Responsibility for Adequacy of Streets and Thoroughfares -- The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of all rights-of-way and street improvements adjacent to the development, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities.
- 2) General Adequacy Policy -- Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the

development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

- 3) Road Network -- New subdivisions shall be supported by a road network having adequate capacity, ingress/egress, and safe and efficient traffic circulation. The adequacy of the road network for developments of one hundred (100) or more dwelling units, or for developments generating five thousand (5,000) or more "one-way" trips per day, or for developments involving collector or arterial streets not appearing on the City's adopted Thoroughfare Plan, or where deemed required by the City Engineer, shall be demonstrated by the preparation and submission, along with the concept plan or preliminary plat application, of a traffic impact analysis. The traffic impact analysis shall be prepared in accordance with Section 3.5. below. The traffic impact analysis shall take into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. If the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the City Council may require a demonstration of the adequacy of the road network pursuant to this Section for any or all additional phases or portions of the property as a condition of approval for the proposed concept plan or plat. If the applicant submits a traffic impact analysis for an entire phased development project, the City may require an update of the study for later phases of the development. If the concept plan or plat conforms with the Thoroughfare Plan and if the concept plan or plat is for a development of less than one hundred (100) dwelling units or for a development generating less than five thousand (5,000) "one-way" trips per day, then a traffic impact analysis may be required at the discretion of the City Engineer.
- 4) Off-Site Improvements -- Where a traffic impact analysis demonstrates the need for such facilities, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or related developments.
- 5) Dedication of Right-of-Way -- The property owner shall provide all rights-of way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan, Design Manual and Standard Construction Details or other valid development plans approved by City Council. In the case of perimeter streets, at least one-half of the total required right-of-way width for such streets shall be provided unless the proposed development is on both sides of the street, in which case the full right-of-way width shall be provided. In some instances, more than one-half of the required right-of-way width shall be required when a half street is impractical or unsafe and depending upon the actual or proposed

alignment of the street, such as in the case of a curved street, as may be required by the City Council.

- a. Perimeter Streets -- Where an existing half-street is adjacent to a new subdivision or addition, the other one-half of the street shall be dedicated, and an appropriate amount of the street shall be improved, by the developer of the subdivision or addition.
- b. Slope Easements -- The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet (3) horizontal run to one foot (1) vertical height, or a three-to-one (3:1) slope.
- 6) Intersection Improvements -- Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis. Construction and design standards shall be in accordance with the City's Design Manual and Standard Construction Details.
- 7) Phased Development -- Where a subdivision is proposed to occur in phases, the applicant, in conjunction with submission of the preliminary plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The City Engineer shall determine whether the proposed phasing of any streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the City determines to be necessary to adjudge whether the subdivision will be adequately served by the phased dedication and construction of such streets and thoroughfares.
- 8) Arrangement of Streets Not Shown on the Thoroughfare Plan -- For streets that are not shown on the City's Thoroughfare Plan, such as local residential streets, the arrangement of such streets within a subdivision shall:
 - a. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas, including at least two (2) points of access;
 - b. Conform to a special area plan for the neighborhood approved or adopted by the City Council to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
 - c. Provide for additional future access, such as by stubbing out streets for future extension to the outer boundary of the subdivision, to adjacent vacant areas which will likely develop under a similar zoning classification or for a similar type of land use; and
 - d. Not conflict in any way with existing or logically anticipated driveway openings.
- 9) Collector and Residential Streets -- Residential collector streets and minor residential streets shall be laid out such that their use by through traffic will be discouraged, such as via circuitous routes or multiple turns or offsets, but such that access is provided to

adjacent subdivisions. Wherever the right-of-way width of a collector or residential street must transition to a greater or lesser width, such transition shall occur along the front, side or rear lot lines of adjacent lots and shall not occur within the street intersection itself. In other words, the right-of-way width shall be the same on both sides of any street intersection.

- 10) Adjacency of Residential Properties -- Where a subdivision abuts or contains an existing or proposed arterial street, the City Council may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through traffic and local traffic.
- 11) Reserve Strips -- Reserve strips controlling access to streets shall be prohibited except where their control is required by the City and approved by the City Council.
- 12) Half Streets -- Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of this Ordinance and the Thoroughfare Plan, and where the City Council makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The City Council may also find that it would be more practical, or cost effective, to delay construction of the other one-half (%) of a street until the adjoining property is developed.

If the property owner is responsible for one-half (%) of the street, then the property owner shall either construct the facility along with his or her development or shall provide escrow for the construction cost of his or her share of the facility (including all applicable street appurtenances such as median openings, left turn lanes into the development, sidewalks, drainage structures, etc.). Whenever a partial street has been previously platted along a common property line, the other portion of the street right-of-way shall be dedicated such that the right-of-way is increased to the streets ultimate planned width. Improvements shall be made to all on-site facilities as defined herein (see Definitions, Section 1.11).

- 13) Perimeter Streets and Associated Improvements -- When a proposed subdivision, whether residential or nonresidential, abuts on one or both sides of an existing substandard street, or on a planned or future road as shown on the Thoroughfare Plan, being substandard according to the then existing current Thoroughfare Plan, the developer shall be required to improve his or her reasonable share of the existing on-site facility as that term is defined herein, including appurtenant sidewalks, screening and landscaping, storm drainage structures, water quality or erosion controls, and other on-site facilities as defined in Section 1.11, to bring the same to City standards, or to replace it with a standard City street as determined by the traffic impact analysis, if required, and at no cost to the City.

- a. The developer's share of improvements to a substandard perimeter road shall be at least twenty-five feet (25) of pavement (including curb, if any), which is approximately equivalent to one-half (50%) of a collector street width (i.e., two through traffic lanes), along the entire front footage of the subdivision, unless the traffic impact analysis, if required, indicates that some other pavement width is necessary to achieve and maintain an acceptable level of service on the roadway. If the subdivision is to be located on both sides of the roadway, at least twenty-five feet (25) of pavement shall be constructed by the developer on each side of the road along the entire front footage of the subdivision on each respective side of the road, unless the traffic impact analysis indicates that some other pavement width is necessary to achieve and maintain an acceptable level of service on the roadway. Design and construction of the roadway shall be in accordance with the City's Thoroughfare Plan (with respect to right-of-way width and general location), the Design Manuals, and with any other applicable City codes and ordinances.
 - b. Depending upon the specific roadway in question, and upon the traffic impact analysis results, any oversizing above the minimum twenty-five feet (25) width may be borne by the City, the County, the State or by some other entity to the extent that the cost of oversizing exceeds the subdivisions roughly proportionate impact. The City Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction and improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.
 - c. Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in Subsection 14 below. A note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage size and lettering shall be in accordance with the City requirements.
- 14) Dead-End Streets** -- Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets, which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turnaround bulb (with an off-site easement) is provided at the end. A temporary dead-end street shall not exceed the maximum allowed length of a normal cul-de-sac, and the temporary turnaround bulb must be constructed like a cul-de-sac. However, the City Engineer may authorize the use of asphalt or other durable paving material than concrete for the arc, or wing, portions of the temporary turnaround bulb in

order to minimize the cost of removing those portions later. A note shall be placed on the final plat clearly labeling any dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub, such as on the barricade, also stating that the street will be extended in the future. Signage and lettering must be large enough to be legible by a person with normal vision at a twenty-foot (20) distance. Any required temporary turnaround easements shall be shown on the final plat along with their appropriate recording information, if they are off-site or established by separate instrument.

- 15) Extension of Existing Streets -- New streets that extend existing streets shall be dedicated at equal or greater right-of-way widths than the existing streets, or as otherwise required by the City's Thoroughfare Development Plan and approved by the City Engineer.
- 16) Construction of New Streets -- All new streets within a subdivision shall be constructed in accordance with paving widths and specifications as set forth in the Design Manual and Standard Construction Details of the City of Farmersville at the time at which the preliminary plat application is officially submitted and deemed a complete application.
- 17) Points of Access -- All subdivisions shall have at least two (2) points of access from improved public roadways (also see Section 3.1). Driveway access onto roadways shall be provided and designed in accordance with the City's Design Manual and Construction Details that are in effect at the time the preliminary plat application is officially submitted and deemed a complete application.
- 18) Street Lights -- All street lighting shall be installed in conformance with the City's Zoning Ordinance. Mercury vapor luminaries shall not be accepted. All fixtures shall be hooded in a way that directs all lighting downward.
- 19) Street Names -- Street names must be submitted to the City, for review and approval as a part of the preliminary plat application, and shall become fixed at the time of approval of the preliminary plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the City (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for review and approval by the City, the U.S. Postal Service, and applicable emergency service providers (including 911) along with the final plat application. A fee may be established by the City for the changing of street names after approval of the preliminary plat.
 - a. Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the City Council. The City will maintain a list of existing street names (and "reserved" street names that have been approved on a preliminary plat), and will update the list as new streets are platted.
 - b. New street names shall not duplicate existing street names (for example, Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle; Cascade Drive vs. Cascading Drive); shall not be so similar as to cause confusion between names (for

example, Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive); and shall not sound like existing street names when spoken (for example, Oak Drive vs. Doak Drive vs. Cloak Drive; Lantern Way vs. Land Tern Way). Suffixes shall be in agreement when a street is extended (for example Oak Street cannot extend Oak Drive).

- c. New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both sides of the thoroughfare, wherever practical. A cul-de-sac or loop that is named after another through street (such as Oak Court or Oak Circle or Oak Trail) must actually connect to the main street (Oak) from which the name is derived.
- d. The property owner shall install all street name signs and poles for the development. Installation shall be complete prior to approval of the engineering plans by the City Engineer.
- e. Street name signs as specified by the City shall be installed in accordance with the City's guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

3.5 TRAFFIC IMPACT ANALYSIS

3.5.1 ANALYSIS REQUIREMENTS

Any proposed development project or plat involving a significant change to a proposed roadway alignment from that shown on the City of Farmersville's Thoroughfare Plan, or involving a development of one hundred (100) or more dwelling units, or for developments generating five thousand (5,000) or more "one-way" trips per day, or as otherwise required by the City Engineer must be preceded by submission and approval of a traffic impact analysis as specified in Subsection 3.5.2 below.

3.5.2 REQUIRED COMPONENTS OF TRAFFIC IMPACT ANALYSIS

Whenever this Ordinance or the City Council, in unique instances which do not necessarily meet the above criteria but which may significantly affect the public health, safety or welfare -- such as a proposed subdivision that will only be accessed via substandard roadways which may pose an impediment to emergency response vehicles -- requires submission and City Council approval of a traffic impact analysis, the following elements shall be included:

- 1) General Site Description** -- The traffic impact analysis shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated dates of construction, and the anticipated completion date of the proposed land development shall be provided. This description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.

- 2) Proposed Capital Improvements -- The traffic impact analysis shall identify any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width or alignment of roadways affected by the proposed development.
- 3) Roadway Impact Analysis --
 - a. Transportation Impacts:
 - i. Trip Generation. The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers, Trip Generation Manual; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the City Engineer.
 - ii. Trip Distribution. The distribution of trips to arterial and collector roadways within the study area identified in Subsection 3.5.2.1 (General Site Description), above, shall conform with accepted traffic engineering principles taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified pursuant to Subsection 3.5.2.1) above.
 - b. Adequacy Determination -- The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service "C" or above.
- 4) Intersection Analysis
 - a. Level of Service Analysis -- For intersections within the roadway traffic impact analysis area described Subsection 3.5.2.1) above, a level of service analysis shall be performed for all arterial to arterial, arterial to collector, and collector to collector intersections, and for any other pertinent intersections identified by the City Engineer. Also, level of service analysis will be required on all proposed site driveway locations for all nonresidential developments. The City may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak

weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

- b. Adequacy Analysis -- The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service "C" or above.
- 5) Effect of Adequacy Determination -- If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in Subsection 3.5.2.1) above that would cause the roadway to fall below the level of service required hereto, the City Council may deny the request or may require one of the following conditions as a condition of approval:
 - a. The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;
 - b. A reduction in the density or intensity of development;
 - c. The dedication or construction of facilities needed to achieve the level of service required herein; or
 - d. Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

3.6 PRIVATE STREET SUBDIVISIONS

3.6.1 PRIVATE STREETS

Subdivisions having private streets may be established only under the terms set forth in this Section, and pursuant to any other ordinances or guidelines for private street developments as may be adopted for use by the City either as part of this Ordinance or as separate ordinances or policies. All private streets shall be designed and constructed in accordance with the City's Design Manual and Standard Construction Details for publicly dedicated streets. The term Private Street shall be inclusive of alleys, if provided.

3.6.2 ELIGIBILITY CRITERIA

Private streets shall be permitted only within a subdivision satisfying each of the following criteria:

- 1) The subdivision shall have a sufficient number of lots and value to demonstrate through an approved economic analysis the viability of private maintenance by the development served;
- 2) The streets to be restricted to private use are not intended for regional or local through traffic circulation (see Subsection 3.6.3 below);
- 3) The subdivision is located in an area that is surrounded on three (3) sides, meaning at least seventy-five percent (75%) of the perimeter, by natural or man-made barriers, so as to be accessible from only a single direction of the compass;
- 4) The subdivision is located adjacent to an existing or approved public street that can be reasonably connected, even though the street connection may require the construction of a bridge or culvert;
- 5) The subdivision shall have at least two (2) points of vehicular access connected via improved roadways to the City's improved thoroughfare and street system by one or more approach roads, as required herein above;
- 6) A mandatory property owners (homeowners) association, which includes every owner of a lot within the private street development, shall be formed and shall be responsible for maintenance of the private streets and alleys. (see Subsection 3.6.5 below and Section 4.3); and
- 7) The subdivision conforms to any other special guidelines for private street developments as may be approved separately by the City Council.

3.6.3 CERTAIN STREETS EXCLUDED

Roads or streets that are shown on the City's Thoroughfare Plan, such as highways, major or minor thoroughfares or arterials, or collectors, shall not be used, maintained or constructed as private streets, and a private street subdivision shall not cross or interfere with an existing or future collector or arterial street. Also, the Planning and Zoning Commission and City Council may deny the creation of any private street if, in their sole determination, the private street would negatively affect traffic circulation on public streets, or if it would impair access to the subject or adjacent property; impair access to or from public facilities including schools or parks; or if it would cause possible delays in the response time of emergency vehicles.

3.6.4 PARKS, GREENBELTS AND WILDLIFE PRESERVES EXCLUDED

A private street subdivision shall not cross or interfere with public access to an existing or future public pedestrian pathway, hike and bike trail, greenbelt, park or wildlife preserve as shown on the City of Farmersville's Parks and Open Space Master Plan or as already dedicated for public use.

3.6.5 PROPERTY OWNERS OR HOMEOWNERS ASSOCIATION REQUIRED

Subdivisions developed with private streets shall have a mandatory property owner's association (the Association) which includes all property and lots served by the private streets in accordance with the requirements of Section 4.3 of this Ordinance. The Association shall own and be responsible for the

maintenance of private streets and appurtenances. The Association shall provide for the payment of dues and assessments required to maintain the private streets. The Association documents shall be reviewed and approved by the City Manager and the City Attorney to ensure that they conform to these and other applicable City rules and regulations prior to final plat approval. The Association documents shall be filed of record at Collin County or Hunt County prior to final plat acceptance in order to ensure that there is an entity in place for long-term maintenance of private streets and all related appurtenances. The Association may not be dissolved without the prior written consent of the City Council. No portion of the Association documents pertaining to the maintenance of private streets and alleys, and assessments therefore, may be amended without the prior written consent of the City Council. The Association and its operations must meet the following requirements:

- 1) Reserve fund -- The Association documents must establish a reserve fund for the maintenance of private streets and other improvements such as common greenbelts, security station structures and equipment, and other significant Association infrastructure. This reserve fund shall not be commingled with any other Association fund. The balance of the fund shall be equal to the total replacement cost of the private streets and other improvements divided by the average life expectancy of those improvements times the age of the improvements. The life expectancy for a subdivision with concrete streets shall be a minimum of twenty (20) years.
 - a. The Association shall have an annual review performed by a certified public accounting firm verifying the amount in the reserve fund. A copy of this review shall be provided to the City.
 - b. If the specific use permit is revoked or the private streets converted to public streets, the reserve fund shall become the property of the City.
- 2) Assessment for Repairs and Assignment of Association Lien Rights -- The Association declaration shall provide that should the Association fail to carry out its duties as specified in these regulations, the City or its lawful agents shall have the right and ability, after due notice to the Association, to perform the responsibilities of the Association if the Association fails to do so in compliance with any of the provisions of these regulations or of any applicable City Codes, regulations or agreements with the City and to assess the Association or the individual lot owners for all costs incurred by the City in performing said responsibilities if the Association fails to do so, and the City shall further have any and all liens and lien rights granted to the Association to enforce the assessments required by the declaration, and/or to avail itself of any other enforcement actions available to the City pursuant to state or City codes and regulations.
- 3) Required disclosures -- The Association documents shall address, but shall not be limited to, the following three paragraphs:
 - a. The Association documents must indicate that the streets within the development are private, owned and maintained by the property owners' association and that the City has no obligation to maintain or reconstruct the private streets.

- b. The Association documents shall include a statement indicating that the City may, but is not obligated to, inspect private streets, and require repairs necessary to insure maintenance to City standards.
- c. The Association may not be dissolved without the prior written consent of the City.

3.6.6 PRIVATE STREET LOT

Private streets must be constructed within a separate lot owned by the property owner's association. This lot must conform to the City's standards for public street rights-of-way. An easement covering the street lot shall be granted to the City and its employees providing unrestricted access to and use of the private streets and private street lot in pursuit of their official duties. This right shall also extend to all utility providers operating within the City and to other necessary governmental service providers, such as the U.S. Postal Service. The easement shall also permit the City to remove any vehicle or obstacle within the private street lot that may impair emergency access.

3.6.7 CONSTRUCTION AND MAINTENANCE COST

The City shall not pay for any portion of the cost of constructing or maintaining a private street.

3.6.8 INFRASTRUCTURE AND UTILITIES

Any public water, sewer and drainage facilities, street lights, and traffic control devices, such as traffic signs, placed within the private street lot shall be designed and constructed to City standards, and shall be accepted by and dedicated to the City prior to filing the record plat for the subdivision. All private traffic control devices and regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices, as amended, and to City standards.

The metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in a centralized location(s), such as gang-box style metering stations, which shall not be permitted.

3.6.9 PLANS AND INSPECTIONS

Development applications for subdivisions with private streets must include the same plans and engineering information required for public streets and utilities. City requirements pertaining to inspection and approval of improvements shall apply, and fees charged for these services shall also apply. The City may periodically inspect private streets, and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare.

3.6.10 RESTRICTED ACCESS

The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private, and that they are not maintained nor regularly patrolled by the City. Guard houses, access control gates, and cross arms, if used, shall be constructed per Subsection 3.6.11 below. All restricted access entrances must be manned twenty-four (24) hours every day, or they must provide a reliable, alternative means of ensuring City and emergency

access to the subdivision, preferably with an Opticom-type system for emergency access, by the City and other utility or public service providers with appropriate identification. The method to be used to ensure City and emergency access into the subdivision shall be approved by the City Council and by all applicable emergency services providers prior to engineering release for construction of the development. If the Association fails to maintain reliable access as required herein, the City may enter the subdivision and remove any gate or device which is a barrier to access at the sole expense of the Association. The Association documents shall contain provisions in conformity with this Section which may not be amended without the written consent of the City Council.

3.6.11 ENTRANCE DESIGN STANDARDS

Any private street (and any other type of gated entrance) which has an access control gate or cross arm must have a minimum uninterrupted pavement width of twenty-seven feet (27) at the location of the gate or access control device, both ingress point and egress point, regardless of the type of device used. If an overhead, or lift-up, barrier is used, it must rise to a minimum of fourteen feet (14) in height above the road surface, and this clearance height shall be extended for a minimum distance of fifty feet (50) in front of and behind the location of the device. All gates and cross arms must be of a breakaway design. A minimum vehicle stacking distance of one hundred feet (100) shall be provided from the right-of-way line of the public road from which the private street subdivision is accessed to the first vehicle stopping point, which point is usually an access request keypad, a telephone, or a guard's window. Adequate distance shall be provided between the access request point(s) and the entry barrier, or gate, to accommodate a vehicle turnaround as described below.

A paved turnaround space must be located in front of (i.e., prior to passage through) any restricted access entrance barrier, between the access request device and the barrier or gate, to allow vehicles that are denied access to safely exit onto public streets without having to back up, particularly into the public street upon which the entrance is located. The design and geometry of such turnaround shall be of sufficient pavement width and having such inside turning radius that it will accommodate smooth, single-motion U-turn movements by service, delivery and utility trucks as well as passenger vehicles.

A site plan showing the design and location of all proposed access restricted entrances shall be submitted for review by the City Engineer along with the engineering plans for the subdivision, and must be approved by the City Council along with approval of the preliminary plat. The City Engineer may require submission of additional drawings, plans or exhibits demonstrating that the proposed turnaround will work properly, and that vehicle turnaround movements will not compromise public safety on the entry and/or exit roadway or on the adjacent public street(s).

3.6.12 WAIVER OF SERVICES

The subdivision final plat and record plat, property deeds and property owner's association documents shall note that certain City services shall not be provided for private street subdivisions. Among the services that will not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon the access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided, as well.

3.6.13 PETITION TO CONVERT TO PUBLIC STREETS

The Association documents shall allow the Association to petition the City to accept private streets and any associated property as public streets and rights-of-way upon written notice to all Association members and upon the favorable vote of a majority of the membership. However, in no event shall the City be obligated to accept said streets as public streets. Should the City elect to accept the streets as public streets, then the City has the right to inspect the private streets and to assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets. The City shall be the sole judge of whether repairs are needed. Upon acceptance of the private streets as public streets the City may also require, at the Associations or the lot owners expense, the removal of any guard houses, access control devices, landscaping or other aesthetic amenities located within the street lot or within any other roadway common area that are not consistent with a public street development. The Association documents shall provide for the City's right to such removal and assessment. Those portions of the Association documents pertaining to the subject matter contained in this Section shall not be amended without the written consent of the City Council. However, the Association documents must be modified and re-filed to remove requirements specific to private street subdivisions at such time as the City accepts the private streets as public streets.

3.6.14 HOLD HARMLESS

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

3.7 SIDEWALKS

3.7.1 SIDEWALKS REQUIRED

Pedestrian concrete walkways (sidewalks) not less than five feet (5) wide or as required by the Zoning Ordinance shall be required within all non-residential and residential subdivisions on both sides of all streets. Sidewalks shall be installed prior to the issuance of a Certificate of Occupancy for each abutting development as set forth in the City of Farmersville's Design Manual and Standard Construction Details.

3.7.2 PROVISION OF ESCROW

The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a developer's agreement, if approved by the City. The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in the City's sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety or welfare.

3.7.3 TIMING OF CONSTRUCTION

As deemed appropriate by the City Engineer, sidewalks shall be constructed at time of development of subdivision, or the funds for such construction shall be escrowed to City and will be reimbursed to developer as sidewalks are constructed.

3.7.4 EXEMPTION

Notwithstanding the foregoing, sidewalks shall not be required in subdivisions with lot sizes at least one (1) acre or more in size.

3.8 **WATER AND WASTEWATER FACILITY DESIGN**

3.8.1 WATER

All new subdivisions shall be connected with an approved water system, and shall be capable of providing water for health and emergency purposes, including fire protection. The design and construction of water system improvements shall comply with the following standards:

- 1) Design and construction of a water source on the site shall be in accordance with applicable regulations of the Texas Commission on Environmental Quality (TCEQ).
- 2) Design and construction of water service from the City shall be in accordance with the City's Design Manual and Standard Construction Details Manual, and in accordance with TCEQ standards, whichever requirement is most stringent.
- 3) Design and construction of a fire protection system shall be in accordance with the City's Design Manual and Standard Construction Details, and in accordance with the fire department serving the site (i.e., the City or the County, as applicable).

3.8.2 WASTEWATER

All new subdivisions shall be required to connect to the City's wastewater system unless served by other means approved by the City Council. The design and construction of the wastewater system improvements shall comply with the following standards:

- 1) Design and construction of on-site waste disposal systems shall comply with applicable regulations of the TCEQ, applicable regulations of Collin or Hunt County, and with the provisions of the City of Farmersville's Code of Ordinances, whichever requirement is most stringent.
- 2) Design and construction of wastewater collection and treatment service from the City shall be in accordance with the standards in the City's Design Manual and Standard Construction Details, and in accordance with TCEQ standards, whichever requirement is most stringent.

3.8.3 APPLICANT’S RESPONSIBILITIES

The applicant shall be responsible for:

- 1) Phasing of development or improvements in order to maintain adequate water and wastewater services;
- 2) Extensions of utility lines to connect to existing utility services;
- 3) Providing or procuring all necessary easements for the utilities (whether on-site or off-site);
- 4) Providing proof to the City of adequate water and wastewater service;
- 5) Providing provisions for future expansion of the utilities if such will be needed to serve future developments or lines larger than twelve (12) inches;
- 6) Providing all operations and maintenance of the utilities, or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities;
- 7) Providing all fiscal security required for the construction of the utilities;
- 8) Obtaining approvals from the applicable utility providers if other than the City; and
- 9) Complying with all requirements of the utility providers, including the City.

3.8.4 EXTENSION OF SERVICES

Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connections to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the City Council may waive the requirement for adjacent utility line construction at the time of preliminary plat approval and prior to construction of the subdivision.

3.8.5 OTHER REGULATIONS

Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ and with any other applicable State rules and regulations, whichever requirement is most stringent.

3.9 STORM WATER COLLECTION AND CONVEYANCE SYSTEMS

3.9.1 SYSTEM DESIGN REQUIREMENTS

Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" condition, and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No storm water collection system shall be constructed unless it is designed in accordance with the City’s Design Manual and Standard Construction Details by a licensed professional engineer, and unless it is reviewed and approved by the City Engineer.

All plans submitted to the City Engineer for approval shall include a layout of the drainage system together with supporting calculations for the design of the system.

3.9.2 EROSION AND SEDIMENTATION CONTROLS

All erosion and sedimentation controls shall conform to the Design Manual and Standard Construction Details, Stormwater Management Plan, City Ordinance, or EPA requirements, whichever is most stringent. For erosion and sedimentation control, the City uses the latest edition of Storm Water Quality Best Management Practices for Construction Activities in North Central Texas (by the NCTCOG), a copy of which is on file at the City.

3.9.3 PERMISSION REQUIRED

No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainage way without first obtaining written permission of the City Engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The City Engineer may, at his or her discretion, require preparation and submission of a flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.

3.9.4 MINIMIZING CUT AND FILL

In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of non-point source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction. Development shall attempt to balance cut and fill required for the development.

3.9.5 PROHIBITION OF CROSS-STREET FLOW

No cross-street flow (i.e., perpendicular to traffic flow) of storm water runoff shall be permitted unless approved by the City Engineer. When and if such drainage flow is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the City Engineer.

3.9.6 RETENTION AND DETENTION

All storm water retention or detention facilities that are not located underground shall be designed using materials and techniques as established in the City's Design Manual and Standard Construction Details or as may be required by the City Engineer and shall be maintained by a Homeowners Association.

3.9.7 LABELING OF INLETS

Developer shall install on each storm inlet a permanent title, plaque or impression stating that this inlet discharges into a river, creek, etc. in order to discourage dumping of debris and toxics. (City shall adopt a design/logo for this purpose.)

3.10 RETAINING WALLS

3.10.1 RETAINING WALL REQUIREMENTS

In general, the use of retaining walls shall be minimized, wherever possible, through minimal and balanced cut and fill on property. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5) and the slope exceeds one unit vertical in two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:

- 1) Location A -- The grade change roughly follows a side or rear lot line.
- 2) Location B -- The grade change is adjacent to a proposed building site boundary.
- 3) Location C -- The grade change is adjacent to a water course or drainage easement.

Retaining walls shall not be constructed parallel to and/or within any portion of a utility easement.

3.10.2 RETAINING WALL DESIGN AND CONSTRUCTION

All retaining wall design and construction shall be in compliance with the provisions of the Building Code and the Design Manuals and Standard Construction Details of the City of Farmersville, and shall be approved by the Building Official.

3.10.3 RETAINING WALL MAINTENANCE

Retaining walls shall be maintained by the owner of the property where such retaining wall is located.

3.11 SCREENING, ENTRY FEATURES AND LANDSCAPING REQUIREMENTS

3.11.1 SCREENING REQUIRED

Where subdivisions are platted so that the rear or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare (greater than sixty feet (60) in right-of-way width on the Thoroughfare Plan); a four (4) lane collector street; are separated from a thoroughfare by an alley; or back up to a collector or residential street (which is not allowed unless specifically approved by City Council), the developer shall provide, at his or her sole expense, screening according to the following alternatives and standards. All screening including columns and decorative features shall be adjacent to the right-of-way and fully located on the private lot(s), within a separate lot or within a landscape easement assigned to the Homeowners Association across several lots. All forms of screening shall conform to the requirements of City ordinances and policies that govern sight distance for traffic safety and meet the following requirements:

- 1) Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's Design Manuals and Standard Construction Details and other related City code(s) and policy(s).

- 2) A maintenance easement at least five feet (5) in width shall be dedicated to the Homeowners Association on the private lot side and adjacent to the screening wall or device.
- 3) The screening wall shall be installed prior to approval of the final plat and prior to final acceptance of the subdivision. Landscape materials may be installed before the subdivision is accepted, upon approval of the City Engineer.
- 4) All plants, such as trees, shrubs and ground covers, shall be maintained by a Homeowners Association meeting the requirements of Section 4.3, shall be living and in sound, healthy, vigorous and growing condition. All plant beds shall be irrigated, with meters charged to the Homeowners Association.
- 5) All masonry and steel screening wall plans and details must be designed and sealed by a Texas licensed professional engineer, and must be approved by the Building Official.
- 6) Required height of screening devices, including spans between columns, shall be a minimum of six feet (6) and shall be no more than eight feet (8) tall. Decorative columns, pilasters, stone caps, sculptural elements, and other features may exceed the maximum eight foot (8) height by up to two feet (2) for a total maximum height of ten feet (10) for these features, provided that such taller elements comprise no more than ten percent (10%) of the total wall length in elevation view. Features that are taller than ten feet (10) in height shall require City Council approval.
- 7) Screening walls and devices shall not be constructed within any portion of a utility easement unless specifically authorized by the City and other applicable utility provider.

3.11.2 ENTRYWAY FEATURES (NEIGHBORHOOD IDENTIFICATION)

Subdivisions may provide a landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use and shall observe all sight visibility requirements. All feature or landscaping shall be located on private property so that long-term maintenance responsibility will be borne by the property owner or an approved Homeowners Association (see Section 4.3). Entryway features that are located within City right-of-way shall only be allowed City Council approval and only with the execution of an agreement with the City that relieves the City of maintenance responsibility and that indemnifies and holds the City harmless for damage or injury incurred by or in conjunction with such features in the right-of-way.

- 1) Design Requirements -- The entryway feature shall include low maintenance, living landscaped materials as approved by the City Manager. The design of the entryway feature shall also include an automatic underground irrigation system, and may also include subdivision identification, such as signage located on the wall. All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container or ball size, as per the latest edition of the "American Standard for Nursery Stock", by the American Association of Nurserymen, as may be amended. Any walls or structures used in the entryway feature

must conform to the City's regulations pertaining to maximum height within the front yard of residential lots (see the Zoning Ordinance) wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area. The design of the entryway shall be in accordance with design policies in the City's Design Manuals and Standard Construction Details. The design of the entryway shall be reflected on the landscape and irrigation plans submitted along with the engineering plans and the preliminary plat, and shall be approved by the City Manager.

- 2) The maintenance of the entryway shall be the responsibility of the applicant for a period of at least two (2) years or until building permits have been issued for ninety percent (90%) of the lots in the subdivision, whichever event is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by an approved Homeowners Association (see Section 4.3).

3.11.3 LANDSCAPING

All landscaping and landscape screening shall conform with the City's Zoning Ordinance, and as interpreted and approved by the City staff.

3.11.4 SIGNAGE

All signage used to identify subdivisions shall conform with the City's Sign Regulations.

3.12 PRIVATE UTILITY SERVICES

3.12.1 DEFINITIONS

For purposes of this section, the following meanings shall apply:

- 1) "Utility services" - The facilities of any person, firm or corporation providing electric, natural gas, telephone, cable television, or any other such item or service for public use approved but not necessarily provided by the City of Farmersville.
- 2) "Feeder line or feeder/lateral line" - High voltage supply electric lines that emanate from substations used to distribute power through an area to an unspecified number of customers.
- 3) "Lateral lines" - Those electric or telephone lines used to distribute power from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.
- 4) "Service lines" - Those electric lines used to connect between the utilities' supply system or lateral lines and the end users meter box.

3.12.2 UNDERGROUND UTILITIES

All utilities, including electrical and communication lateral lines, shall be installed underground along Major and Principal 4-lane undivided streets, local collector streets and local streets, as indicated on the Thoroughfare Plan, unless approved by the City Engineer. Temporary electrical services may be placed above ground along Major and Principal 4-lane undivided streets, but must be placed underground as adjacent property develops. Electrical service lines for residential and non-residential properties from overhead distribution lines shall be placed underground from the right-of-way to the point of service. Nothing in this Section shall be construed to require any existing facilities in place prior to the effective date of this Ordinance to be placed underground.

- 1) Cost Recovery -- Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the property owner in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the property owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities, as approved by the City Engineer.
- 2) Support Equipment -- All electrical and telephone support equipment, including transformers, amplifiers and switching devices necessary for underground installations, shall be pad or ground-mounted, or shall be mounted underground and not overhead, unless the subdivision is served from perimeter overhead electrical facilities. Pad or ground-mounted utility equipment shall be completely screened from view of any public roadway, and shall not be located within any required visibility area, such as at street intersections or corners or at driveway openings or within City right-of-way.

3.12.3 EASEMENTS

The location, size and type of all private utility easements running over, across and through or otherwise serving the subdivision shall be identified on the final plat. Verification of acceptance of easement locations and widths by the utilities shall be provided to the City, by the applicant, prior to final plat approval by the City Council, and all easements shall be reviewed by the utility companies and by the City Engineer (for those to the City) prior to granting final approval for any residential subdivision affected by this Section.

3.12.4 LETTERS OF COMMITMENT

The applicant shall, prior to final plat approval, provide a Letter of Commitment from each utility provider stating that said utility providers will ensure the provision of necessary infrastructure and service to all portions of the proposed development prior to acceptance of the subdivision by the City. Failure to submit such Letters of Commitment from utility providers shall constitute grounds for denial of the final plat application on the basis that there is no written assurance that the development can be served by essential utility services.

3.12.5 METERING

Except for multi-family, condominium and mobile home park developments, the metering for utilities such as water, gas and electricity shall be located on the individual lots to be served, not grouped together in one or more centralized locations, in accordance with the Texas Administrative Code, (16 TAC), Section 24.89(a)(4).

3.12.6 LOCATION OF UTILITIES

Utilities along residential and collector streets shall be located in an alley or separate easements adjacent to the street rights-of-way. Street crossings shall be installed contemporaneously with the construction of the street to avoid disruption or boring.

3.12.7 INSTALLATION BEFORE ACCEPTANCE

All utilities shall be installed before the City accepts any subdivision.

3.13 EASEMENTS

3.13.1 MINIMUM WIDTH AND LOCATION

The minimum width for City easements shall be fifteen feet (15) or as otherwise required by the City Engineer. The minimum width for City drainage easements shall be as required by the City Engineer. The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the applicant's responsibility to determine appropriate easement widths required by other utility companies (also see Section 3.12). Wherever possible, easements shall be centered on or along front or side lot lines rather than across the interior or rear of lots, particularly where no alleys will be provided behind the lots.

3.13.2 STORM WATER AND DRAINAGE EASEMENTS

Where a subdivision is traversed by a watercourse, drainage way or channel, there shall be provided a storm water easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the City Engineer, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the City. Single-loaded parallel streets or parkways may be required adjacent to certain portions of creek or drainage ways to provide maintenance access and/or public access to recreation areas (see Section 4.1.3). Other utilities may be permitted within the drainage easement only if approved by the City Engineer and any other applicable entity requiring the drainage easement.

3.13.3 EASEMENT TO BE KEPT CLEAR

No fences or other structures shall be located within a drainage easement.

3.13.4 SUBDIVISIONS WITH NO ALLEYS

Where alleys are not provided in a residential subdivision, a minimum fifteen foot (15) wide utility easement shall be provided along the front of all lots, adjacent to and flush with the street right-of-way line for the potential placement of utility facilities.

3.13.5 PLATTING REQUIRED

For new development, all necessary on-site easements shall be established on the subdivision plat and not by separate instrument, and they shall be labeled for the specific purpose, and to the specific entity, for which they are being provided. Examples include, but are not limited to, the following: a water, sanitary sewer or drainage easement, which is dedicated to the City for a water or sanitary sewer line or for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the City and its fire suppression and emergency medical service providers for access purposes; or an electrical, gas or telephone easement, which is dedicated to the specific utility provider that requires the easement.

Section 4 PARKS, OPEN SPACE AND PUBLIC FACILITIES

4.1 AREAS FOR PARKS AND PUBLIC USE

4.1.1 PARKS AND PUBLIC OPEN SPACE

The applicant shall give consideration to suitable sites for parks, playgrounds and other areas for public use so as to conform with the recommendations and requirements of the Comprehensive Plan. Any provision for parks and public open space areas shall be indicated on the preliminary and final plat, and shall be in accordance with the Zoning Ordinance, and subject to approval by City Council.

4.1.2 PARK LAND DEDICATION

- 1) Any person, firm, or corporation offering a preliminary or final plat for development of any area zoned and to be used for single-family, duplex, townhouse or multi-family residential purposes within the City shall include on such preliminary and final plat the dedication (to the City of Farmersville) of land for public park purposes.

The location and size of public parks within the City shall be as approved by the City Council. That determination shall be based upon existing circumstances at the time.

- 2) The dedicated land required hereby shall be suitable and dedicated for park and recreational purposes only. Such land shall be free of flood plain and major utility easements, and shall be suitable for appropriate recreational and leisure activities. Lands occupied by major utility easements and transmission lines shall not be accepted. Areas having environmentally sensitive ecosystems, attractive views, topographical interest or unique natural features shall be preferred and encouraged for park land dedication.
- 3) All subdivisions involving five (5) or more lots shall be subject to a dedication of five percent (5%) of the gross area of the subdivision to the public for use as parks, playgrounds, recreational areas, open spaces, or green areas. In cases where it appears that the property to be dedicated is not suitable for such purpose or purposes, the City Council may at its option, require the developer to deposit with the City of Farmersville an amount of money equivalent in value to five percent (5%) of the gross area, after any adjustment as described in the previous paragraph, of such proposed subdivision. In the event that the City Council elects to require the deposit of such monetary sum, the amount shall be calculated on the basis of the then current tax roll fair market value of the area included in such subdivision, immediately prior to the final platting and approval thereof by the City. In such cases, all monies derived from such sources shall be used by the City of Farmersville either for the acquisition of additional park sites, open spaces, or green areas in said City, or for capital improvements to existing parks, open spaces or

green areas, and no portion thereof may be used for maintenance to existing parks or for any other purpose.

4.1.3 PUBLIC PARK ACCESS

Park land shall be easily accessible to the public and open to public view so as to benefit area residents. A proposed subdivision adjacent to a public park or open space area shall not be designed to restrict reasonable access or visibility into the park and shall not have lots backing to the park land. Rather, the park land shall be placed along a single loaded street. Street connections between residential neighborhoods shall be provided, wherever possible, to provide reasonable access to parks and open space areas. Proposed access and public availability, both physical and visual, of parkland shall be reviewed and approved by the City's Park Board and by City Council.

4.2 PROTECTION OF DRAINAGE AND CREEK AREAS

4.2.1 NATURAL CONDITIONS

All creeks and drainage areas shall be preserved and protected in their natural condition wherever possible, unless significant storm drainage improvements are required by the City in these areas. All development adjacent to creeks and drainage areas shall be in accordance with the City's Design Manuals and Standard Construction Details, with applicable policies in the Comprehensive Plan, and with any other City policies or ordinances related to aesthetics or public enjoyment of creeks and waterways.

4.2.2 DEFINITIONS AND METHODOLOGY FOR DETERMINING THE FLOODWAY MANAGEMENT AREA (FMA)

The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of flood plain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be used for development by means of fill according to FEMA and City engineering criteria.

For the purposes of this Ordinance, the Floodway Management Area (FMA) will correspond to the floodway fringe, as defined by FEMA (or as may be modified per a flood study approved by FEMA).

4.2.3 AREAS WHERE AN FMA IS REQUIRED

All drainage areas or regulated floodways and floodway fringe areas as referenced on the applicable flood boundary map (the Flood Insurance Rate Map, or FIRM) shall be included in the FMA. If FEMA does not specify a floodway fringe zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA based upon fully developed conditions and the 100-year

flood. The determination shall be made by a licensed professional engineer and approved by the City Engineer. Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition. The creek shall remain in its natural state unless improvements are permitted or required by the City due to the pending development of properties adjacent to or upstream of the required improvements.

4.2.4 OWNERSHIP AND MAINTENANCE OF THE FMA

The area determined to be the FMA shall be designated on the preliminary and final plat. Approximate locations shall be shown on zoning change requests and concept plans -- accurate locations of the FMA shall be established on the preliminary and final plat and prior to site construction. At the City's option, the FMA shall be protected by one of the following methods:

- 1)** Dedicated to the City of Farmersville for flood management purposes (flood areas shall not be dedicated for parks or recreation purposes); or
- 2)** Easement(s). Creeks or drainageways on tracts which have private maintenance provisions, other than single- or two-family platted lots, can be designated as the FMAs by an easement to the City on the preliminary and final plat (with the appropriate plat language, as required by the City). Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there are adequate maintenance provisions through a mandatory homeowner's association, but no lots or portions of lots may be platted in the FMA easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number; or
- 3)** Designation of the FMA for certain recreational uses normally associated with or adjacent to flood prone areas (no structures allowed in the FMA), such as golf courses or certain types of parks. The uses allowed shall be in conformance with the Zoning Ordinance and approved by the Planning and Zoning Commission and City Council. Use of the FMA as public parkland shall also require approval by the City's Park Board.

Prior to acceptance of any drainageway as an FMA by the City, the area shall be cleared of all debris and placed in a maintainable state. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for recreational purposes and unless storm drainage requirements do not permit this to occur.

4.2.5 DESIGN CRITERIA

The following design criteria shall be required for development adjacent to the FMA:

- 1)** Adequate access shall be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA on one side. On the opposite side of the

drainage area, an unobstructed area having a minimum width of five feet (5') shall be provided.

- 2) Lots in a single-family, PD single-family, or duplex residential zoning district shall not be platted within the FMA, and no more than fifty percent (50%) of the linear length of the FMA (on each side) shall be allowed to have lots backing or siding onto it. If lots back or side onto an FMA, at least two (2) points of access to the FMA, each a minimum of twenty feet (20') in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be at least twenty-foot (20) wide). All areas of the FMA shall be accessible from the access points and shall be visible from such access points. Lots used for multi-family dwellings may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents, and provided that access to the FMA is possible by City maintenance vehicles, should that need arise. If the FMA is to be public parkland, then adequate public access shall also be provided to the FMA.
- 3) Public streets may be approved in the FMA by the Planning and Zoning Commission and City Council (if they conform to applicable engineering standards).
- 4) Public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.
- 5) Alternate designs to facilitate equal or better access may be permitted if approved by the Planning and Zoning Commission and City Council.
- 6) Drainage areas that have been altered and are not in a natural condition can be exempted from an FMA and this Section at the discretion of the City Council and upon recommendation by the Planning and Zoning Commission.

4.3 PROPERTY OWNERS OR HOMEOWNERS ASSOCIATIONS

4.3.1 APPLICABILITY

An incorporated nonprofit property owners or homeowners association (hereafter referred to collectively as Homeowners Association or Association) must be created when a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City of Farmersville for public use, such as private streets, a private recreation facility, landscaped entry features, floodplains and drainage easements or other private amenities. The Homeowners Association shall also be responsible for the maintenance of all landscaping, buffering, screening, irrigation and associated improvements adjacent to residential subdivisions along public thoroughfares. The City is not responsible for enforcing deed restrictions or protective covenants.

4.3.2 REQUIRED PLANS AND DOCUMENTS

The City may require the following:

- 1) Plans and illustrations of the proposed amenities and/or common areas;
- 2) Cost estimates of construction, maintenance and operating expenses;
- 3) Association documents, deed restrictions, contracts and agreements pertaining to the amenities and/or common areas; and
- 4) Provision of surety as required for maintenance and other expenses related to the amenities and/or common areas.

4.3.3 APPROVAL REQUIRED

All amenities to be placed on land dedicated to the City, or involving the potential use of public funds for maintenance and operation shall require City Council approval prior to approval of the final plat. The City Council may deny any such amenity at its sole discretion.

4.3.4 COMPLETION

All amenities and/or common areas must be completed and in place prior to the City Engineer accepting the public improvements and prior to the final release of a Certificate of Occupancy and occupying of residential structures.

4.3.5 ESTABLISHMENT

Documents establishing the property owners' association shall be submitted to the city for review by the City Attorney for conformance with this and other applicable ordinances prior to the approval of a final plat. The documents shall specify:

- 1) That the membership in the association is mandatory for all owners of property within the subdivision;
- 2) All association responsibilities and property interests;
- 3) By-laws related to the governance of the association;
- 4) Covenants for maintenance assessments which run with the land;
- 5) Responsibility for liability insurance and local taxes;
- 6) Authority for the association to secure funds from its members sufficient to meet its responsibilities. This authority shall include the ability to collect dues, to increase dues, charge special assessments and place liens against property for failing to pay dues and assessments;
- 7) A requirement that the association shall provide and maintain contact information with the City Secretary's office;
- 8) The right of immediate access to common areas at all times for any governmental authority or agency, including but not limited to the City and the county, their agents and employees if necessary for the preservation of public health, safety and welfare;

- 9) A prohibition on amendments pertaining to the maintenance of private streets and alleys, amenities and/or common areas and related assessments without the written consent of the City Council;
- 10) A requirement that prohibits dissolution of the association without the prior written consent of the City Council; and
- 11) Other city requirements as applicable.

4.3.6 MAINTENANCE RESERVE FUND

Prior to the transfer of the association to the lot owners, the developer must provide a reserve fund equivalent to one (1) years dues based on full association membership.

4.3.7 PROPERTY ASSOCIATION ACTIVATION

Concurrent with the transfer of the association the developer must transfer to the association control over all utilities related to the property and amenities and/or storm water controls to be owned by the association. The developer must also disclose to the association the total cost to date related to the operation and maintenance of common property and amenities.

Section 5 REQUIREMENTS FOR COMPLETION, ACCEPTANCE AND MAINTENANCE OF IMPROVEMENTS

5.1 IMPROVEMENTS IN GENERAL

5.1.1 GENERAL REQUIREMENTS

The requirements of the Subdivision Ordinance as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of the Subdivision Ordinance, all improvements required herein are installed properly and:

- 1) The City can provide for the orderly and economical extension of public facilities and services;
- 2) All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
- 3) All required improvements are constructed in accordance with City standards.

5.1.2 COMPLIANCE WITH ADEQUATE PUBLIC FACILITIES POLICY

No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site, as required by the Adequate Public Facilities policy in Section 3.1. Wherever the subject property abuts adjoining undeveloped land, or wherever required by the City to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

5.1.3 REQUIRED PUBLIC IMPROVEMENTS

Public improvements that are required by the City of Farmersville for the acceptance of the subdivision by the City shall include, but are not limited to, the following:

- 1) Water and wastewater facilities;
- 2) Storm water drainage, collection and conveyance facilities;
- 3) Water quality, erosion and sedimentation controls;
- 4) Streets;
- 5) Street lights;
- 6) Street signs;
- 7) Alleys;
- 8) Sidewalks;
- 9) Screening and/or retaining walls;
- 10) Traffic control devices required as part of the project;
- 11) Gas, Electric, Cable, Phone utilities installed; and

- 12) All appurtenances necessary to the above, and any other public facilities required as part of the proposed subdivision.
- 13) All applicable fees, including but not limited to water and sewer impact fees, roadway impact fees, park fees, pro rata payments, escrow funds for infrastructure, security and maintenance bonds.

5.1.4 COMPLIANCE WITH STANDARDS, CODES AND ORDINANCES

All aspects of the design and implementation of public improvements shall comply with the City's then current design standards and any other applicable City codes and ordinances, including preparation and submittal of engineering plans and construction inspection. The construction of all of the improvements required in this Ordinance shall conform to the latest edition of the City's Design Manuals and Standard Construction Details, as may be amended, and to any other applicable City standards.

5.1.5 CHANGES OR AMENDMENTS TO THE DESIGN MANUALS AND STANDARD CONSTRUCTION DETAILS AND OTHER CONSTRUCTION OR DESIGN DOCUMENTS

The Design Manuals and Standard Construction Details will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the Design Manuals and Standard Construction Details may be amended by separate ordinance. It is the applicant's responsibility to be aware of, and to conform with, all Design Manuals and Standard Construction Details requirements (including amendments) that are in place as of the time a complete development application for a preliminary plat (including required engineering/construction plans) is received by the City.

5.2 **WATER AND WASTEWATER REQUIREMENTS**

5.2.1 GENERAL REQUIREMENTS

No final plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the applicant has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities and with the City's Design Manuals and Standard Construction Details, and shall be approved by the City Engineer (see also Section 3.8).

5.2.2 SIZE AND LOCATION

A water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided. Water lines shall extend to the property line to allow future connections into adjacent undeveloped property, and a box for the water meter(s) for each lot shall be installed either in the right-of-way or immediately adjacent to the right-of-way in an easement. Services for utilities shall be made available to the property line of

each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.

5.2.3 FIRE PROTECTION

Fire protection shall be provided in accordance with Section 3.8 of this Ordinance, the City's Design Manuals and Standard Construction Details Manual, and any other City policy or ordinance pertaining to fire protection or suppression. The Fire Chief shall have the authority to approve the locations and placement of all fire hydrants and fire lanes and he or she may, at his or her discretion, modify fire hydrant spacing or fire lane placement based upon special design or distance circumstances.

5.3 STORM DRAINAGE AND WATER QUALITY CONTROLS

5.3.1 ADEQUACY OF SYSTEM

An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as determined by the City Engineer, will not be considered for development until adequate drainage has been provided.

5.3.2 DESIGN CRITERIA

The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to Section 3.9 of this Ordinance. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. Storm water drainage from one lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner(s), unless specifically approved by the City Engineer, and unless the necessary off-site drainage easement is procured on and across the affected property(s).

5.3.3 DEVELOPER'S MAINTENANCE RESPONSIBILITIES

The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, with the exception of backyard and side yard drainage swales, at the eleventh month of the second year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

5.4 WITHHOLDING CITY SERVICES AND IMPROVEMENTS UNTIL ACCEPTANCE

5.4.1 DEDICATION AND ACCEPTANCE REQUIRED

The City hereby defines its policy to be that the City will withhold all City services and improvements of whatsoever nature, including the maintenance of streets and the furnishing of all other City services from

any subdivision or property until all of the street, utility, storm drainage and other public improvements, as well as lot improvements such as retaining walls and grading and installation of improvements required for proper lot drainage and prevention of soil erosion on the individual residential lots, are properly constructed according to the approved engineering plans and to City standards, and until such public improvements are dedicated to and accepted by the City.

5.5 GUARANTEE OF PUBLIC IMPROVEMENTS

5.5.1 PROPERTY OWNERS GUARANTEE

Before accepting for filing the final plat of a subdivision located entirely or partially within the City's corporate limits or its extraterritorial jurisdiction, the City Council must be satisfied that all required public improvements have been (or will be) constructed in accordance with the approved engineering plans and with the requirements of this Ordinance as well as the City's Thoroughfare Plan, master plans for water and wastewater facilities, Design Manuals and Standard Construction Details and other applicable development ordinances.

5.5.2 FACILITIES AGREEMENT AND GUARANTEE

A developer shall be required to enter into an agreement with the City which shall govern his subdivision if there are pro rata payments, city participation in cost, escrow deposits or other future considerations, other nonstandard development regulations or if all public improvements required to be dedicated to the City will be not completed prior to acceptance of the final plat for filing, or filing the record plat, minor plat, or final plat in the county records. This agreement shall be based upon the requirements of this chapter; and shall provide the City with specific authority to complete the improvements required in the agreement in the event of default by the developer, and to recover the full legal costs of such measures. The City may subordinate its facilities agreement to the prime lender if provided for in said agreement.

The facilities agreement shall be a legally binding agreement between the City and the developer specifying the individual and joint responsibilities of both the City and the developer. Unusual circumstances relating to the subdivision shall be considered in the facilities agreement such that the purpose of this chapter is best served for each particular subdivision. The developer shall include in such an agreement a hold harmless and indemnity clause agreeing to hold the City harmless against any claim arising out of the developer's subdivision of the property or any actions taken therein.

In the event of a disagreement between the developer and the City Manager or the City Engineer concerning stipulations of the facilities agreement, the City Council shall review said stipulations and make recommendation for resolving the disagreement.

The developer shall have a continuing responsibility under this facilities agreement after the filing of the record plat, minor plat, or final plat until all facilities and improvements required under this facilities agreement have been completed. It is the Council's intent that the facilities agreement shall place the City in the same position that it would occupy had the required adequate public facilities been designed, constructed and accepted by the City prior to recording the plat for the subdivision in question. When the construction of required improvements has proceeded to the point that certain parts of the

subdivision are adequately served, the City Engineer may release specified portions of the subdivision for use prior to the completion of all improvements, unless the release of such improvements will jeopardize or hinder the continued construction of required improvements. Any facilities agreement shall remain in force for all portions of the subdivision for which a release has not been executed.

The City Council may determine the duration of the facilities agreement. The City Council may also require the property owner to complete or dedicate some of the required public improvements prior to acceptance of the final plat, and to enter into a facilities agreement for completion of the remainder of the required improvements. The facilities agreement shall also contain such other terms and conditions as are agreed to by the property owner and the City.

5.5.3 IMPROVEMENT AGREEMENT REQUIRED FOR OVERSIZE REIMBURSEMENT

The City shall require a facilities agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs. The City Council, as it deems appropriate, has the authority to authorize the approval of such agreement as meeting the requirements of the City, and the City shall not withhold approval as a means of avoiding compensation due under the terms of this Ordinance.

5.5.4 SECURITY

Whenever the City permits an applicant to enter into a facilities agreement, it shall require the applicant to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a performance bond or an irrevocable letter of credit or other security acceptable to the City Manager and the City Attorney, as security for the promises contained in the improvement agreement. Security shall be in an amount equal to one hundred twenty percent (120%) of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and irrevocable letter of credit shall be subject to the approval of the City Manager and the City Attorney.

5.5.5 PERFORMANCE BOND

If the City Council authorizes the applicant to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:

- 1)** All performance bonds must be in the forms acceptable to the City Manager and the City Attorney;
- 2)** All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies", as published in Circular 570, as may be amended, by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury;
- 3)** All performance bonds must be signed by an agent, and must be accompanied by a certified copy of the authority for him or her to act;

- 4) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or the surety ceases to meet the requirements listed in Circular 570, the developer shall, within twenty (20) calendar days thereafter, substitute another performance bond and surety, both of which must meet the foregoing requirements and be acceptable to the City.

5.5.6 IRREVOCABLE LETTER OF CREDIT

If the City Council authorizes the applicant to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

- 1) Be irrevocable;
- 2) Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) successive one year terms;
- 3) Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit; and
- 4) Be issued by a financial institution that allows presentment in person by the City within the physical area covered by the North Central Texas Council of Governments.

5.5.7 PARTIAL REDUCTION IN SECURITY

As portions of the public improvements are completed in accordance with the Design Manuals and Standard Construction Details and the approved engineering plans, the applicant may make written application to the City Manager to reduce the amount of the original security. If the City Manager is satisfied that such portion of the improvements has been completed in accordance with City standards, he or she may, but is not required to, cause the amount of the security to be reduced by such amount that he or she deems appropriate, so that the remaining amount of the security adequately insures the completion of the remaining public improvements.

5.5.8 GUARANTEE

The developer shall guarantee all public improvements free of defects for a two (2) year period from the date of acceptance of said improvements by the City. Upon acceptance by the City of all required public improvements, the City shall reimburse 100% of the security if the applicant is not in breach of the facilities agreement.

5.6 TEMPORARY IMPROVEMENTS

The applicant shall build and pay for all costs of temporary improvements required by the City, and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the applicant shall file with the City a separate facilities agreement and escrow or, where authorized, an irrevocable letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and timely removed.

5.7 FAILURE TO COMPLETE IMPROVEMENTS

For plats for which no facilities agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the City, the plat approvals shall be deemed to have expired. In those cases where a facilities agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the City may:

- 1) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- 2) Suspend final plat approval until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
- 3) Obtain funds under the security and complete the public improvements itself or through a third party;
- 4) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property as reflected in a facilities agreement with the subsequent owner; or
- 5) Exercise any other rights or remedies available under the law.

5.8 ACCEPTANCE OF DEDICATION OFFERS

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

5.9 MAINTENANCE AND GUARANTEE OF PUBLIC IMPROVEMENTS

5.9.1 TWO (2) YEAR MAINTENANCE PERIOD

The property owner shall maintain all required public improvements for a period of two (2) years following acceptance of the subdivision by the City, and shall also provide a two-year maintenance bond (warranty) that all public improvements will be free from defects for a period of two (2) years following such acceptance by the City.

5.10 CONSTRUCTION PROCEDURES

5.10.1 SITE DEVELOPMENT PERMIT

A site development permit is required from the City prior to beginning any site development-related work in the City or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a flood plain.

5.10.2 PRECONSTRUCTION CONFERENCE

The City shall require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing or removal of vegetation and trees that are larger than six (6) caliper inches in diameter. All contractors shall be familiar with and shall conform to applicable provisions of the City's landscape ordinance (Farmersville Zoning Ordinance).

5.10.3 CONDITIONS PRIOR TO AUTHORIZATION

Prior to authorizing release of a site development permit, the City Engineer shall be satisfied that the following conditions have been met:

- 1) The preliminary plat has been approved by the City Council (and any conditions of such approval have been satisfied);
- 2) All required engineering documents are completed and approved by the City Engineer;
- 3) All necessary off-site easements and dedications required for City-maintained facilities and not shown on the plat must be conveyed solely to the City, such as by filing of a separate instrument, with the proper signatures affixed. The original of the documents and the appropriate fees for filing the documents meeting Collin or Hunt County requirements, and the City's submission guidelines, as may be amended from time to time shall be returned to the City prior to approval and release of the engineering plans by the City Engineer;
- 4) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer, and at least one set of these plans shall remain on the job site at all times;

- 5) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City; and
- 6) All applicable fees must be paid to the City.

5.10.4 NON-POINT SOURCE POLLUTION CONTROLS AND TREE PROTECTION

All non-point source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the City Engineers satisfaction, prior to commencement of construction on any property.

5.11 INSPECTION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS

5.11.1 GENERAL PROCEDURE

Construction inspection shall be supervised by the City Engineer. Construction shall be in accordance with the approved engineering plans and the Design Manuals and Standard Construction Details of the City of Farmersville (and all other applicable codes and ordinances). Any change in design that is required during construction should be made by the licensed professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents and signed and sealed by the subsequent engineer(s). All revisions shall be approved by the City Engineer. If the City Engineer finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the City's standards and Design Manuals and Standard Construction Details, then the property owner shall be responsible for completing and correcting the deficiencies such that they are brought into conformance with the then applicable standards.

5.11.2 LETTER OF SATISFACTORY COMPLETION

The City will not deem required public improvements satisfactorily completed until the applicant's engineer and surveyor have certified to the City Engineer, through submission of detailed sealed "as-built", or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the City Engineer, and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with the engineering plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an "as-built" stamp bearing the signature and seal of the licensed professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the City with a copy of the approved final plat and the engineering plans in a digital format that is compatible with the City Engineer's CADD system. When such requirements have been met to the City Engineers satisfaction, the City Manager shall thereafter make a recommendation to the City Council for consideration of satisfactory completion of the public improvements. Once the City Council votes its approval of satisfactory completion, the City Engineer shall issue the Letter of Satisfactory Completion.

Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City Council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the property owner has posted a performance bond, irrevocable letter of credit or cash bond in the amount of one hundred twenty percent (120%) of the estimated cost of those remaining improvements for a length of time to be determined by the City Council. If the value of the remaining public improvements is greater than ten thousand dollars (\$10,000.00) and are not completed within the determined length of time, the City will impose a penalty that equals ten percent (10%) of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than ten thousand dollars (\$10,000.00) in value, the developer shall pay the actual dollar amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.

Upon acceptance of the required public improvements, the City Engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

5.12 DEFERRAL OF REQUIRED IMPROVEMENTS

5.12.1 APPROVAL REQUIRED

The City Council may, upon petition of the property owner and favorable recommendation of the City Engineer, defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.

5.12.2 FACILITIES AGREEMENT

Whenever a petition to defer the construction of any public improvements required under this Ordinance is granted by the City Council, the property owner shall execute a facilities agreement in accordance with the preceding provisions in this chapter regarding facilities agreements.

5.13 ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY

5.13.1 GENERAL REQUIREMENTS

No building permit shall be issued for a lot, building site, building or use of a lot or building unless the lot or building site has been officially recorded by a final plat approved by the City Council, and unless all public improvements, as required by this Ordinance for final plat approval have been completed.

Section 6 PARTICIPATION AND ESCROW

6.1 PARTICIPATION POLICIES

6.1.1 CITY'S SHARE OF IMPROVEMENT COSTS

The city shall participate in the costs of public improvements which are not for the primary benefit of the development and which have been oversized to serve other developments only to the extent and according to the standards and requirements of the Design Manuals and Construction Standards and of the requirement of the Texas Local Government Code. All city participation is subject to a Development Agreement entered into between the City and the owner.

6.1.2 OWNER'S RESPONSIBILITY

The property owner shall be responsible for the entire costs of designing and installing all public improvements which primarily serve the subdivision or addition. Facilities required by these regulations shall be considered as primarily serving the subdivision or addition unless otherwise determined by the city.

6.1.3 OVERSIZED OR OFFSITE IMPROVEMENT

The property owner shall also be responsible for its share of the costs of oversized or offsite public improvements needed to assure adequacy of public facilities and services for the addition or subdivision, subject to participation and escrow policies contained in this article. The property owner shall be responsible for extending streets, water, sewer or drainage facilities offsite to his property as required by the Commission and/or required to ensure adequacy of public facilities.

6.1.4 PRO RATA

Should the subdivision or addition abut an existing water or sanitary sewer line installed by someone other than the city, the owner shall pay to the city a "Developers Liability" charge to be refunded to the original installer of the line, as prescribed by the Pro Rata ordinance of the city.

6.1.5 LIFT STATIONS

Should a lift station, either temporary or permanent, be necessary to provide a sanitary sewer service to the subdivision or addition, the property owner shall construct the station and all appurtenances, at his own expense. If and when the lift station is no longer needed, the installation will, unless other provisions are made, remain the property of the City of Farmersville for reuse or disposal. A "Developers Liability" charge for such lift stations and appurtenances may be established as prescribed in the ProRata Ordinance of the city.

6.1.6 LIMITATIONS AND EXCEPTIONS

The city shall not participate in the following costs:

- 1) Those portions of the costs of any public improvements not expressly authorized by the Design Manuals and Construction Standards.
- 2) Costs of clearing and grubbing for streets and thoroughfares.
- 3) Costs of constructing streets build wider than called for in the Thoroughfare Plan.
- 4) Costs of lights, decorative finishes or other similar expenses, unless required by the City Engineer.
- 5) Costs of pipe or box culverts, headwalls (regardless of size), or the costs of retention/detention ponds or slope protection.
- 6) Costs of detours, pavement transitions and cross-overs.
- 7) Costs of relocating or adjusting private utility company facilities.
- 8) Costs of underground box culverts not require by the City.

6.2 ESCROW POLICIES AND PROCEDURES.

6.2.1 REQUEST FOR ESCROW

Whenever this Ordinance requires a property owner to construct a street or thoroughfare, or other type of public improvement, the property owner may, if there exists unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or Collin or Hunt County, that would present undue hardships or that would impede public infrastructure coordination or timing, petition the City to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this Section. If more than one street or thoroughfare must be constructed to meet adequacy requirements for roadways, as demonstrated by a traffic impact analysis, the City Engineer may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways. The City Council shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the City Councils deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's construction of the street or thoroughfare with his or her development.

6.2.2 ESCROW DEPOSIT WITH THE CITY

Whenever the City shall agree to accept escrow deposits in lieu of construction by the owner of the property under this Ordinance, the property owner or developer shall deposit in escrow with the City an amount equal to one hundred twenty percent (120%) of the costs of design, construction, permits, reviews and approvals, inspections, insurance, payment and performance bonds, maintenance bonds, and any additional land acquisition costs. Such amount shall be paid prior to release of the engineering plans by the City Engineer. The property owner and the property owner's transferees, successors and assigns shall be jointly and severally liable or responsible to the City for any and all costs related to the design and construction of the required roadway or public improvement that exceed the amount escrowed.

6.2.3 DETERMINATION OF ESCROW AMOUNT

The amount of the escrow shall be determined by using the maximum comparable turnkey bid price of construction of the improvements (including design, permits, reviews and approvals, inspections and any additional land acquisition that may be needed). Such determination of the escrow amount shall be made as of the time the escrow is due hereunder.

6.2.4 TERMINATION OF ESCROW

Escrows which have been placed with the City under this Section or in accordance with previously approved street improvement policies, and which have been held for a period of twenty (20) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the current property owner, with any accrued interest. Such return does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new application for a building permit is filed.

6.2.5 REFUND

If any street or highway for which escrow is deposited is constructed by a party other than the City, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the current property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

6.2.6 INTEREST LIMITATION

If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent (1%) less than the rate of actual earnings. Existing funds, collected for previous subdivision development such as Perimeter Street funds, shall be refunded as stated in Subsection 6.2.4 above, principle and earned interest.

6.2.7 AGREEMENT REQUIREMENTS

An agreement and escrow of funds pursuant to this Section shall meet all of the requirements regarding a facilities agreement as set forth in Section 5.12.2.