

6. FIRE CODE PLAN REVIEW AND INSPECTIONS: \$165 + \$0.055 per square foot
7. MOVING FEE: For the moving of any building or structure, the fee shall be \$100.00
8. PENALTIES. Where work for which a permit is required by this code is started or preceded prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this code in the execution of the work nor from any other penalties herein.
9. PLAT FILING FEE. The following schedule of fees and charges shall be collected by the City's designated representative when and annexation petition, plat of rezoning request is tendered to the City for consideration. Each of these fees and charges provided for herein shall be paid in advance, and no action by either the commission or the City Council shall be valid until the fees, herein provided shall have been paid.

A. Annexation fees: \$150.00

B. Preliminary Plat Fees:

1) Minor Subdivisions. 1 to 4 lots, \$100.00 and engineering fee if the Planning and Zoning Commission determines that a study is necessary.

2) Major Subdivisions. 5 lots to 4 acres, \$200.00 plus \$20.00 per lot plus engineering fees. For a major subdivision, topography, drainage and road improvements must be reviewed by and engineer.

C. Final Plats: \$250.00

D. Re-Plats: fees to reflect platting fees

E. Rezoning: \$200.00

ARTICLE II. - PROCEDURES

Sec. 34-32. - Pre-application procedures.

The subdividers should avail themselves of the advice and assistance of the city officials, and should consult early and informally with the city administrator, the city engineer, the building official and/or other designated administrative officers before preparing a land study or any type of plat (e.g., a preliminary plat, final plat, amended plat, replat, etc.) in order to save time, money and to avoid unnecessary delays. Prior to formal application for approval of any land study or plat (e.g., preliminary, final, amending, replat, etc.), the subdividers shall request and attend a pre-application conference with the city administrator, or designee, the city engineer, the building official and any other pertinent city official in order to become familiar with the city's development regulations and the development/subdivision process. At the pre-application conference, the developer/subdivider may be represented by his land planner, engineer and/or surveyor.

(Ord. No. 07-01, § 2.1, 2-13-2007)

Sec. 34-33. - Statutory procedures.

(a) *Zoning requirements.*

- (1) A property within the city's corporate limits that is being proposed for platting must be properly zoned for the proposed use (see chapter 42 and the city's zoning map) before a preliminary or final plat can be approved or filed for record. In addition, the proposed development layout/subdivision design shown on the preliminary or final plat must be in conformance with all standards and requirements prescribed in chapter 42 before the plat can be approved or filed. Noncompliance with the requirements of the zoning district in which the subject property is located (or lack of the proper zoning) shall constitute grounds for denial of the plat.
- (2) A land study may be submitted for review and may be approved without the proper zoning in place, but any such approval is only conditional and shall be subject to acquisition of the proper zoning within one year of the land study approval date. If the proper zoning is not acquired by that time, the approved land study shall expire and shall become null and void.

(b) *Classification of subdivisions and additions.* Before any land is platted (i.e., filed for record), the property owner shall apply for and secure approval of the proposed subdivision plat, in accordance with the following procedures, unless otherwise provided within this chapter. Subdivisions are classified as major or minor (see definitions), depending upon the number of lots to be created and upon whether or not any public improvements will be required to develop the property.

- (1) Minor subdivisions shall create no more than four lots, and every lot within a minor subdivision shall already be served by all required city utilities and services pursuant to this chapter and other applicable city ordinances. If the development of any lot within the proposed subdivision will require the construction of a new street (or portion thereof) or a public improvement (e.g., water or sewer line, drainage facility, required screening wall, etc.), or if an easement or right-of-way dedication for any public facility or roadway must be established on the plat, then the subdivision (and its corresponding plat) shall be classified as a major subdivision (and plat) and shall be processed/approved as such. Minor subdivisions may be approved for residential or nonresidential properties. Minor plat approval requires the submission of a final plat drawing and other submission materials (see section 34-33) similar to a final plat, except that the planning and zoning commission shall have the authority of final approval of

minor plats. A minor plat that is denied by the commission may be appealed to the city council using the procedures set forth in section 34-35(f). Lots may be conveyed (i.e., sold) only when the final plat has been approved and the plat has been filed with the county.

- (2) Major subdivisions involve the creation of new streets, the construction/extension of a municipal facility, the establishment of an easement or right-of-way for any public facility or roadway, and/or the creation of more than four lots. Major subdivisions may be approved for residential or nonresidential properties. The procedure for approval of a major plat typically requires three steps: land study (or concept plan for nonresidential property), preliminary plat and final plat (see sections 34-34 through 34-37 for applicability and requirements for each). A concept plan or preliminary site plan (in lieu of a land study) that includes sufficient information to provide for the proper coordination of the development may be required for nonresidential property (see section 42-577). Major plat approval shall be in accordance with sections 34-35 through 34-37. Upon completion of the required public improvements (or upon submission and city approval of the appropriate surety for public improvements), the property owner may submit the final plat for approval. All major subdivision plats must be considered by the planning and zoning commission and approved by the city council, pursuant to sections 34-35 through 34-39. Lots may be sold only when the final plat has been approved by the city and the plat has been filed with the county (i.e., if the land is required to be platted, no conveyance/sale of any portion/lot of the property may occur until after the final plat is approved by the city and filed with the county).
- (c) *Submission requirements.* In addition to the requirements outlined herein for each type of development application, the city shall maintain separate policies and procedures for the submission and processing of applications, including, but not limited to, application forms, checklists, language blocks for plats, and other similar items (forms and paperwork are available at the office of the city administrator, or designee). These policies and procedures may be amended from time to time, and it is the applicant's responsibility to be familiar with, and to comply with, said policies and procedures.
- (d) *Action by planning and zoning commission or city council.* The planning and zoning commission shall recommend approval or disapproval of a preliminary or final plat application, or shall identify requirements/conditions which must be satisfied prior to approval of such application, within 30 days after the plat is filed. For purposes of this section, identification of requirements/conditions which must be satisfied prior to approval of the application shall be considered denial of the plat application until such said requirements/conditions are satisfied. The planning and zoning commission shall take action (i.e., review and consider at a public meeting) on the plat application within 30 days of the official submission date. All plats for a major subdivision shall be considered by the planning and zoning commission and approved by the city council.
- (e) *Simultaneous submission of plats.* In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in section 34-35(c), the city administrator, or designee, shall schedule both plat applications for consideration by the planning and zoning commission within 30 days of the official submission date, unless the applicant has executed a waiver of the 30-day review period in writing for one or both plats. If the preliminary plat has not received approval prior to consideration of the final plat by the commission, then the commission shall deny the final plat application.
- (f) *Proof of land ownership.*
 - (1) In the public interest, the city requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide written verification (e.g., a notarized statement, power of attorney, etc.) that he is the owner of record of

the subject land parcel (or the owner's authorized agent). The city administrator, or designee, shall have the authority to determine what document the city will require to prove ownership, such as one of the following:

- a. General warranty deed;
 - b. Special warranty deed;
 - c. Title policy; or
 - d. Some other documentation that is acceptable to the city administrator, or designee.
- (2) If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, and if the city has concerns regarding the welfare of future owners of all or any portion of the subject property, then the city shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new development application, along with applicable paperwork and filing fees, on the property at any time following such denial (i.e., no waiting period).

(Ord. No. 07-01, § 2.2, 2-13-2007)

Sec. 34-34. - Procedures and submission requirements for land study approval.

- (a) *Applicability.* A land study, or a concept plan/preliminary site plat, per the site plan review in chapter 42, shall be submitted to the planning and zoning commission and the city council for review, evaluation and approval in the following circumstances:
 - (1) In conjunction with an application for preliminary plat approval for any tract of land over 50 acres in size, or for a smaller tract, where the land is part of a larger parcel over 50 acres in size, which is ultimately to be developed under this chapter; or
 - (2) In any case where a road is to be established or realigned.
- (b) *Purpose.* The purpose of the land study is to allow the planning and zoning commission and city council to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the comprehensive plan, chapter 42, future land use plan, thoroughfare plan and other applicable plans, and the property's relationship to adjoining subdivisions or properties (also see section 34-71(e)), and to assist in evaluating the impacts of developing the land to be platted on provision of supporting public facilities and services, the environment, provision of open spaces and recreational opportunities and the general health, safety and welfare of the community.
- (c) *Extent of area required for land study.* When the preliminary plat or development plat designates the land to be developed in phases, the land study area (or for nonresidential property, the area covered by a concept plan/preliminary site plan, per section 42-577) shall include the entire property from which the phases are being subdivided and an approximate development schedule. Where the applicant can demonstrate that natural or manmade features, such as thoroughfares and/or creeks, make inclusion in the land study of the entire property unnecessary to adequately review the items listed in subsection (b) of this section, he may request approval from the city administrator, or designee, for a smaller land study area. Boundaries such as thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or manmade features may be used to delineate the smaller study area.
- (d) *Land study preceded by pre-application conference.* Submission of an application for land study approval shall be preceded by a pre-application conference with the city (see section 34-32). The land study shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals 200

feet, and it shall show the following:

- (1) A title block within the lower right-hand corner of the land study with the proposed name of the additions, the name and address of the owner/developer and the land planner, engineer, architect or surveyor responsible for the design or survey, the scale of the drawing, the date the drawing was prepared, and the location of the tract according to the abstract and survey records of the county;
 - (2) A vicinity or location map that shows the location of the proposed development within the city, or its ETJ, and in relationship to existing roadways;
 - (3) The limits of the tract and scale distances with north clearly indicated;
 - (4) The names of adjacent additions or subdivisions (or the names of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc. The land study shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any nonresidential uses anticipated, and a generalized circulation plan for the subject property;
 - (5) The existing zoning and existing/proposed uses on adjacent land; the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information); existing buildings; railroad rights-of-way; topography with existing drainage channels or creeks; any other important natural features; all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and/or school district boundaries;
 - (6) The layout and width of proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets;
 - (7) A general arrangement of land uses, including, but not limited to, park and school sites, public facilities, private open space, floodplains/drainageways, and proposed nonresidential and residential densities and building heights; and
 - (8) The phasing of development or anticipated order of platting.
- (e) *Certificate of no tax delinquency.* At the time the developer files a land study application with the city administrator, or designee, he shall also file 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 34-10.
- (f) *Procedures and conditions.*
- (1) The required number of copies of the proposed land study shall be submitted no later than 21 calendar days before the planning and zoning commission meeting at which it shall be considered, accompanied by an application form, the appropriate filing fee (per the city's guidelines, as may be amended from time to time), and any other required submission materials determined necessary by the city administrator, or designee.
 - (2) The planning and zoning commission and the city council shall review and evaluate the land study to determine whether the proposed development conforms to the comprehensive plan and may require additional information to be submitted to supplement the initial study. Based upon the land study, the planning and zoning commission may recommend, and the city council may require as a condition of preliminary plat approval, that the land to be platted be developed in phases, that the proposed phases be developed in a different sequence or include more or less land, or that all phases designated be accompanied by a schedule of public improvements to adequately serve the development under the development standards of this chapter.
 - (3) A land study may be submitted for review concurrently with a preliminary plat, provided that the

respective requirements for both types of applications are satisfied (per sections 34-34 and 34-35). If the preliminary plat, and associated construction plans, cannot be reviewed by the city administrator, or designee, in time for it to be scheduled on the same planning and zoning commission agenda as the land study (i.e., due to lack of familiarity with the proposed subdivision, since the land study did not precede the preliminary plat), then the preliminary plat shall be denied, on the basis of inadequate review time, unless the applicant has executed a waiver of the 30-day review period, in writing, for the preliminary plat.

(g) *Effect of review.*

- (1) The land study shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities/services that will be needed to serve the proposed development. Any proposed use or development depicted on the land study shall not be deemed formal authorization or approval by the city until a preliminary plat is approved for the development (i.e., land study approval is to be thought of as a general acknowledgment by the city that the proposed layout generally conforms to the city's subdivision regulations, and that the proposed development can be adequately served by required public facilities/services). If the applicant chooses to plat only the initial phase or phases of a multi-phase project designated in the land study, a new land study may be required for plat approval of subsequent phases, if the proposed development layout/character and/or other conditions affecting the development substantially change from one phase to the next.
- (2) The approved land study shall be valid for a period of one year from the date of land study approval by city council. Prior to the lapse of approval for a land study, the property owner may petition the city to extend the land study approval. Such a petition shall be considered at a public meeting before the planning and zoning commission and then city council. An extension can then be granted by the city council at such meeting. If no petition of land study approval is submitted by the property owner/developer prior to the expiration date, the land study shall be deemed to have expired and shall become null and void.
- (3) In determining whether to grant a request for extension, the city council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations shall apply to the land study. The commission may recommend, and the city council may approve, extension of the land study or deny the request, in which instance the original land study shall be deemed null and void. The property owner must thereafter submit a new land study application for approval, and shall conform to the subdivision regulations then in effect.
- (4) The commission may recommend, and the city council may grant, extension of the land study subject to additional conditions based upon newly enacted city regulation and/or state legislation, or such as are necessary to ensure compliance with the original conditions of approval. The commission may recommend, and the city council may decide, to specify a shorter time for extension of the land study than the original one-year approval period.

(Ord. No. 07-01, § 2.3, 2-13-2007)

Sec. 34-35. - Procedures and submission requirements for preliminary plat approval.

(a) Constitution of primary plat.

- (1) Upon reaching conclusions at the pre-application conference, as described in section 34-32, regarding a general development program and objectives, the subdivider shall have prepared a preliminary plat

together with full engineering plans for the construction of the subdivision and other supplementary materials, as specified by the city. The preliminary plat shall be submitted to the city with the appropriate filing fees (as provided in the city's plat submission guidelines, which may be amended from time to time), and with a written application form at least 21 calendar days (but no more than 30 calendar days after the plat is filed unless the applicant waives the 30-day review time in writing) prior to the planning and zoning commission meeting at which it is to be considered.

- (2) At the time the developer files a preliminary plat application with the city administrator, or designee, he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with section 34-10.
 - (3) The preliminary plat shall be in accordance with chapter 42, including the proper zoning for the intended use, if located within the city's corporate limits. It shall also be in accordance with the city's comprehensive plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The preliminary plat shall be prepared by a registered/certified civil engineer, land planner or surveyor.
 - (4) The preliminary plat shall constitute only that portion of the approved land study which the subdivider proposes to construct and record; provided, however, that such portion conforms to all the requirements of these regulations.
- (b) Copies of plat.
- (1) Copies/prints of the preliminary plat for the proposed subdivision, drawn on sheets 24 inches by 36 inches and drawn to a known engineering scale of not smaller than 100 feet to the inch or larger scale, shall be submitted in the quantity specified by the city's plat submission guidelines, as may be amended from time to time. In cases of large developments which would exceed the dimensions of the sheet at 100 foot scale, preliminary plats may be on multiple sheets or to another known engineering scale, as approved by the city administrator, or designee, and as acceptable for eventual filing with the county.
 - (2) Preliminary plat applications which do not include the required data, a completed application form, the appropriate filing fee, the appropriate number of copies of the plat, and/or other required information will be considered incomplete, shall not be accepted for submission by the city, and shall not be scheduled on a planning and zoning commission agenda until the proper information is provided to city staff. Additional copies of the preliminary plat may be required if revisions or corrections are necessary. A preliminary plat, if not preceded by a land study showing phasing of the development, shall include all contiguous property under the ownership or control of the applicant. It may contain more than one phase which, if so, shall be clearly identified.
- (c) The subdivider may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the city may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats, including full construction plans and the appropriate assurances for the completion of all improvements, as per article VI of this chapter, and provided that adequate review can be achieved by the city. If the city, due to staff resources and/or other factors, cannot complete its review of both plats, and other associated materials, prior to the applicable planning and zoning commission meeting, then only the preliminary plat shall be considered for approval and the final plat shall be denied unless the 30-day review requirement is waived in writing by the applicant.
- (d) Following review of the preliminary plat and other materials submitted in conformity to these regulations, and following discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be installed, the planning and zoning commission shall act upon the preliminary plat as it

was submitted, or as modified. If the commission recommends approval, the commission shall state the conditions of such approval, if any, and the preliminary plat shall be placed on the next possible city council agenda for consideration. The city council shall take action on the preliminary plat within 30 days of the planning and zoning commission action. After the preliminary plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the 30-day approval requirement in order to allow him 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 preliminary plat beyond 30 days of the submission date.

- (e) Approval of a preliminary plat by city council, upon favorable recommendation by the planning and zoning commission, shall be deemed approval of the street and lot layout shown on the preliminary plat, and approval for construction of the necessary streets, water lines, sewer lines and other required improvements and utilities (subject to the city engineer's approval of the engineering/construction plans), and to the preparation of the final or record plat. Except as provided for herein, approval of the preliminary plat shall constitute conditional approval of the final plat when all conditions of approval, as provided in this article, have been met.
- (f) If the planning and zoning commission votes to disapprove a preliminary plat application, the commission shall state such disapproval and the reason therefor. The applicant or property may appeal such decision to city council by filing a notice of appeal in the office of the city administrator, or designee, no later than ten days after the date upon which the commission denied the application. The city council shall consider the appeal at a public meeting no later than 30 days after the date upon which the notice of appeal was filed. The city council may affirm, modify or reverse the decision of the commission, or it may, where appropriate, remand the preliminary plat back to the commission for further proceedings consistent with the city council's decision. Affirmation or modification of the commission's recommendation shall require a simple majority vote of the city councilmembers present.
- (g) Standards for approval. No preliminary plat shall be recommended for approval 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 land study or other studies and plans, as applicable;
 - (2) The layouts and construction (i.e., engineering) plans for required public improvements and city utilities have been submitted for approval by the city engineer (whether specifically stated or not, preliminary plat approval shall always be subject to additions and/or alterations to the engineering/construction plans as deemed necessary by the city 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 other regulations.
- (h) No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the preliminary plat by the city council, upon favorable recommendation by the planning and zoning commission. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the preliminary plat and stating any requirements, including easements, they may have. This requirement may be deferred until the final plat is submitted if such deferral request is submitted to the city in writing and approved by the city administrator, or designee, prior to the planning and zoning commission meeting at which the preliminary plat shall be considered. No excavation, grading or site clearing activities shall occur prior to approval of the preliminary plat and the construction (engineering) plans. However, limited/preliminary grading or site preparation activities (e.g., excavation, filling,

tree removal/clearing, etc.) may be authorized by the city administrator, or designee, at his discretion, if such request is submitted in writing by the property owner/developer and if such activities will not be detrimental to the public health, safety or general welfare.

- (i) The required copies/prints, as determined by the city, of the proposed preliminary plat and associated construction (i.e., engineering) plans shall show the following (the preliminary plat itself shall only include those items marked by *italics*—other physical/engineering data shall be included in the construction plans):
- (1) *A vicinity/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/survey lines, corporate or other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearing and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see section 34-127 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/or line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract/survey corner or existing subdivision corner shall be shown;*
 - (3) *The name, location and recording information of all adjacent subdivisions (or property owners of adjacent unplatted 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 subdivisions in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot/block numbering, easements and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;*
 - (4) *The location, widths and names of all streets, alleys and easements (it shall be the applicant's responsibility to coordinate with appropriate utility entities for placement of necessary utility easements), existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted (in the form of a letter/memo along with the application form) for all new street names (street name approval is required at the time the preliminary plat is approved);*
 - (5) *The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), building existing sewer or water mains, gas mains or other underground structures, or other existing features within the area proposed for subdivisions;*
 - (6) *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 the concept plan or preliminary site plan, per section 42-577);*
 - (7) *A title block within the lower right-hand corner of the plat (and construction plans) which shows the title/name under which the proposed subdivision is to be recorded, the name and address of the owner/developer and the name of the land planner, engineer or registered public surveyor who prepared the plat/plans, the scale of the plat, the date the plat was prepared and the location of the property according to the abstract/survey records of the county; the subdivision and street names shall not duplicate (or phonetically replicate) the name of any other platted subdivision in the county, the city or its ETJ, but phrasing identification is allowed (it is the owner's/developer's responsibility to check the plat records of the county to ensure that the proposed subdivision and street names will not duplicate or*

sound too much like any names already in existence; the city may, at its discretion, require a different street or subdivision name if there is potential for confusion by public safety officials or the general public);

- (8) *Sites, if any, to be reserved or dedicated for parks, schools playgrounds or other public uses;*
- (9) *Scale, date, north arrow oriented to the top or left side of the sheet and other pertinent informational data;*
- (10) Contours with intervals of two feet or less shown for the area, with all elevations on the contour map referenced to sea level datum;
- (11) Areas contributing drainage to the proposed subdivision shall be shown in the construction (i.e., engineering) plans; locations proposed for drainage discharge from the site shall be shown by directional arrows;
- (12) All physical features of the property to be subdivided shall be shown in the construction (i.e., engineering) plans, including the location and size of all watercourses, 100-year floodplain according to the Federal Emergency Management Agency (FEMA) information, Army Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions, the outline of major wooded areas or the location of major or important individual trees and other features pertinent to the subdivision;
- (13) Engineering/construction plans of water and sewer lines and other infrastructure, including sizes, to be constructed in the subdivision; the proposed connections to distribution mains shall be indicated;
- (14) *Proposed phasing of the development;* where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development; *the dedication of right-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 council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
- (15) *All preliminary plats shall be submitted in a legible format that complies with the county requirements for the filing of plats, and shall be drawn on a good grade blue line or black line paper;*
- (16) *Proposed or existing zoning of the subject property and all adjacent property;*
- (17) *Minimum finished floor elevations of building foundations shall be shown for lots adjacent to a floodplain or within an area that may be susceptible to flooding;*
- (18) *Certificates and other language shall be included on the plat, pursuant to the following sections:*
 - a. *A statement that the subdivided area is legally owned by the applicant.*
 - b. *An accurate legal (i.e., metes and bounds) description by bearings and distances, including necessary curve and line data, accurate to the nearest 1/100 of a foot, for all boundary, block and lot lines, with descriptions correlated to a permanent survey monument.*
 - c. *A statement signed by the owner and acknowledged before a notary public as to the authenticity of the signatures, saying that the owner adopts the plat as shown, described and named, and that they do dedicate in fee simple, to the public use forever the streets, alleys and easements shown on the plat. The owner further reserves any easement areas shown for mutual use of all public utilities desiring to use the same. Any public utility shall have the right to remove and keep removed all or*

any part of any vegetative growth or other appurtenance for construction or maintenance, or efficiency of its respective system in these easements and all or any part of any growth or construction which in any way hinders or interferes with the rights of ingress and egress to these easements for any necessary use without asking anyone's permission.

- d. *The registered public surveyor's certificate, with a place for his signature and notarization of his signature.*
- e. *A place for plat approval signature of the mayor or mayor pro tem of the city council, a place for the city secretary to attest such signature, and the approval dates by the planning and zoning commission and city council.*
- f. *Following are the certificates/languages to be used on the plat to accommodate the above requirements:*
 - 1. *Required owner's certificate.*

STATE OF TEXAS

COUNTY OF _____

WHEREAS, [_____ Name(s) _____] is/are the Owners of a tract of land situated in the [_____] Survey, Abstract No. [_____], Kaufman County, Texas and being out of a [_____] acre tract conveyed to him/them by [_____] and a [_____] tract conveyed to him/them by [_____] and being more particularly described as follows:

(Enter accurate metes and bounds property description here)

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

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

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

WITNESS, my hand, this _____ day of _____, 2 _____

BY:

_____ Authorized Signature of Owner	
_____ Printed Name and Title	

STATE OF TEXAS

COUNTY OF _____

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

Given under my hand and seal of office, this _____ day of _____, 2 _____

_____ Notary Public in and for the State of Texas	
My Commission Expires: _____	

2. *Required surveyor's certificate.*

KNOW ALL MEN BY THESE PRESENTS:

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

(Seal)

_____ Signature of Registered Public Land Surveyor	
--	--

Registration No.: _____	
-------------------------	--

STATE OF TEXAS

COUNTY OF _____

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

Given under my hand and seal of office, this _____ day of _____, 2 _____

_____ Notary Public in and for the State of Texas	
My Commission Expires: _____	

3. *Required approval block.*

PRELIMINARY PLAT

Approved for preparation of final plat following construction of all public improvements (or appropriate sureties thereof) necessary for the subdivision shown on this plat.

APPROVED BY: Planning and Zoning Commission

City of Kemp, Texas

_____ Signature of Chairperson	_____ Date
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APPROVED BY: City Council

City of Kemp, Texas

_____ Signature of Mayor	_____ Date
ATTEST:	

City Secretary

Date

4. *Required special notice.*

NOTICE: Selling a portion of this addition by metes and bounds is a violation of city ordinance and state law, and is subject to fines and/or withholding of utilities and building permits.

5. *Visibility, access and maintenance easements (to be used if applicable).*

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

6. *Fire lanes (to be used if applicable).*

That the undersigned does hereby covenant and agree that he/they shall construct upon the fire lane easements, as dedicated and shown hereon, a hard surface in accordance with the city's paving standards for fire lanes, and that he/they shall maintain the same in a state of good repair at all times and keep the same free and clear of any structure, fences, trees, shrubs or other improvements or obstruction, including, but not limited to, the parking of motor vehicles, trailers, boats or other impediments to the accessibility of fire apparatus. The maintenance of paving on the fire lane easements is the responsibility of the owner and the owner shall post and maintain appropriate signs in conspicuous places along such fire lanes, stating "Fire Lane, No Parking." The local law enforcement agency is hereby authorized to enforce parking regulations within the fire lanes, and to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

7. *Access easement (to be used if applicable).*

The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all time of the city, its agents, employees, workmen and representatives having ingress and egress, and regress in, along, upon and across said premises.

8. *Other plat language.*

The plat shall include any other applicable language (e.g., for drainage/floodway or other special types of easements, etc.) deemed appropriate and necessary by the city for the purpose of protecting the public health, safety and welfare. Applicable plat languages are available upon request at the city.

- (j) Effect of approval. Approval of a preliminary plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval and upon construction of all required improvements (or submission of the proper assurances for construction of same, per article VI of this chapter), to submit an application for final plat approval (see section 34-36).
- (k) Extension and reinstatement procedure.
 - (1) *Approval.*
 - a. Approval of a preliminary plat shall be valid for a period of one year from the date of city council approval unless reviewed by the planning and zoning commission and extended by city council (see subsection (k)(2) of this section) in the light of new or significant information which would necessitate the revision of the preliminary plat.
 - b. The engineering/construction plans shall also be valid for a period on one year after approval by the city. The city administrator, or designee, may grant a one-year extension, after which they are subject to re-approval by the city if no construction has occurred.
 - (2) *Petition for extension.*
 - a. Prior to the lapse of approval for a preliminary plat, the property owner may petition the city to extend the preliminary plat approval. Such petition shall be considered at a public meeting before the planning and zoning commission and then the city council, and an extension may be granted by the city council at such meeting. If no petition for extension of preliminary plat approval is submitted by the property owner/developer and approved by the city council prior to the expiration date, the preliminary plat shall be deemed to have expired and shall become null and void.
 - b. In determining whether to grant a request for extension, the city council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the preliminary plat. The commission may recommend, and the city council may grant, extension of the preliminary plat or denial of the request, in which instance the original preliminary plat shall be deemed to be null and void. The property owner must thereafter submit a new preliminary plat application for approval, and shall conform to the subdivision regulations then in effect.
 - c. The commission may recommend, and city council may grant, extension of the preliminary plat subject to additional conditions based upon newly enacted city regulations and/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 commission may recommend, and city council may specify, a shorter time for extension of the preliminary plat than the original one-year approval period.

(Ord. No. 07-01, § 2.4, 2-13-2007)

Sec. 34-36. - Procedures and submission requirements for final plat approval.

- (a) The final plat shall be in accordance with the preliminary plat, as approved, and shall reflect/incorporate all applicable conditions, changes, directions and additions imposed by the planning and zoning commission and city council upon the preliminary plat. The final plat shall not be approved by the city until all utilities,

infrastructure and other required improvements have been constructed according to the engineering/construction plans, as approved by the city engineer, unless provisions are made for the completion of the improvements in accordance with article VI of this chapter. The final plat shall not be submitted prior to approval of the preliminary plat (see section 34-35(c) for exception). At the time the developer files a final plat application with the city administrator, or designee, he shall also file a certificate showing all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with section 34-10.

- (b) The final plat shall be in accordance with chapter 42 (including the proper zoning for the intended use) if located within the city's corporate limits, and it shall be in accordance with the city's comprehensive plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The final plat shall be prepared by a registered/certified civil engineer, land planner or surveyor.
- (c) Copies, approval, etc.
 - (1) The required number of copies of the proposed final plat shall be submitted at least 21 calendar days (but no more than 30 calendar days, unless the applicant waives the 30-day review time in writing) before the planning and zoning commission meeting at which it shall be considered, accompanied by an application form and a filing fee (per the city's plat submission guidelines, as may be amended from time to time). The city administrator, or designee, shall check the plat to ascertain its compliance with these regulations and shall report any points of noncompliance to the applicant. If revisions are necessary, the applicant/developer or his engineer shall submit additional corrected copies of the properly completed final plat to the city administrator, or designee, for final action no later than seven days prior to the commission meeting. Failure to submit corrected copies back to the city in time shall be reason to determine the submittal is incomplete. Further, such failure to submit corrected copies shall constitute valid reason to not schedule the final plat on the commission's agenda or to deny the final plat application. If, upon resubmission of the final plat application to the city, the city administrator, or designee, determines that the application is still incomplete (i.e., not ripe for consideration) the application will be subject to denial.
 - (2) The planning and zoning commission shall recommend approval, approval subject to certain conditions, or denial of the final plat within 30 days of the official submission date. The city council shall take action on the final plat within 30 days of the planning and zoning commission's action. After the final plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the 30-day approval requirement in order to allow him 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 30 days of the submission date.
 - (3) If the planning and zoning commission denies a final plat application, the commission shall state such disapproval and the reasons therefor. The applicant or property owner may appeal such decision to city council by filing a notice of appeal in the office of the city administrator, or designee, no later than ten days after the date upon which the commission denied the application. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The city council shall consider the appeal at a public meeting no later than 30 days after the date upon which the notice of appeal was filed. The city council may affirm, modify or reverse the decision of the commission, or it may, where appropriate, remand the final plat back to the commission for further proceedings consistent with the city council's decision. Affirmation or modification of the commission's recommendation shall require a simple

majority vote of the city councilmembers present. The city council may reverse the commission's decision to deny a plat (upon appeal by the applicant/property owner) upon a majority vote of the full city council (i.e., majority of all councilmembers).

- (4) Upon final plat approval, the developer/applicant shall return copies of the final plat, as approved, with any other required documents and necessary fees attached thereto, to the city administrator, or designee, within 30 days, in accordance with requirements established by the city. All easements shall be included on the plat (including recording information for those easements that are filed as separate instruments) as required by utility companies and/or the city prior to filing, and a copy of letters from each applicable utility company shall be submitted to the city administrator, or designee, stating that the plat contains the proper easements. All necessary filing materials, including Mylar's, reductions and/or blueline copies, and/or modern equivalents as required by the county clerk, in addition to Mylar copies and a computer disk containing the digital plat file required by the city, shall be returned to the city administrator, or designee, with the required fees. If the required copies and materials are not returned to the city within the specified time, the city's approval of the final plat shall be null and void unless an extension is granted by the city council. The city administrator, or designee, shall file the final plat within 30 working days at the office of the county clerk.
- (d) The final plat, and any replat or other recordable plat, shall be prepared by a registered public surveyor or licensed land surveyor.
- (e) Standards for approval. No final plat shall be recommended for approval by the planning and zoning commission or approved by 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/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 VI of this chapter); and
 - (3) The plat conforms to applicable zoning and other regulations.
- (f) When all of the improvements are found to be constructed/installed (i.e., completed) in accordance with the approved plans and specifications and with the city's standards, and upon receipt by the city of a maintenance bond or certificate of deposit in accordance with article VI of this chapter from each contractor, three sets of as built (or record drawing) plans and one set of as-built or record drawing sepias shall be submitted with a letter stating the contractor's compliance with these regulations. After such letter is received, the city administrator, or designee, shall receive and accept for the city the title, use and maintenance of the improvements according to section 34-160. The final plat shall not be approved prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the city.
- (g) Timing of public improvements.
 - (1) The commission and city council may permit all or some of the public improvements to be installed, offered for dedication, and/or accepted by the city after approval of the final plat by the city if a compelling reason exists that is inconsistent with the public health, safety and/or welfare to do so (see also article VI of this chapter). 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 must be approved by the city at the time of preliminary plat approval, and the necessary assurances for completion of the improvements (in accordance with article VI of this chapter) shall be a stipulation (i.e., condition) of approval of the preliminary and/or final plat.

- (2) If the commission and city council do not require that all public improvements be installed, offered for dedication and/or accepted by the city prior to approval of the final plat, it shall require that the applicant provide assurances/security for the completion of the improvements or escrowed funds, as provided in article VI of this chapter.

(h) Engineering/construction plans.

- (1) Along with the final plat application, and before approval of the final plat by the city council, upon a favorable recommendation by the planning and zoning commission, the developer shall submit the required copies of the complete engineering/construction plans for streets, alleys, storm sewers/drainage structures, water and sanitary sewer facilities, screening walls, landscaping/irrigation and any other required public improvements for the area covered by the final plat. Cost estimates shall also be submitted with the construction plans. Prior to approval of the final plat, a set of construction plans marked "Approved" must be on file with the city. A full set of the city-approved engineering/construction plans must also be available for inspection on the job site at all times.
- (2) The developer shall have these plans prepared by their own professional engineer, subject to approval of the plans by the city. The city administrator, or designee, 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 developer. If not approved, one set shall be marked with the objections noted and returned to the applicant or developer for correction. Once the construction plans are approved by the city, the owner/developer shall provide additional sets of the approved plans to the city, as specified by the city administrator, or designee, for use during construction.
- (3) After approval of the final plat, construction plans and specifications by the city, the developer shall cause a contractor to install/construct the public improvements in accordance with the approved plans and the city's standard specifications, and at the developer's expense (also see article VI of this chapter). The developer shall employ engineers, surveyors and/or other professionals as necessary to design, stake, supervise and perform the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with these regulations and with the city's design standards.
- (4) Construction plans shall be prepared by or under the direct supervision of a professional engineer registered in the state, as required by state law governing such professions and in accordance with this chapter and the city's technical construction standards and specifications (TCSS). All construction plans submitted for city review shall be dated and shall bear the responsible engineer's registration number, his designation of "professional engineer" or "PE," and the engineer's seal. Construction plans shall be approved by the city engineer when such plans meet all requirements of this chapter and the TCSS.
- (5) Engineering and construction plans shall be in conformance with the technical construction standards and specifications (TCSS) and with the requirements set forth herein. Engineering/construction plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, perimeter sidewalks, screening walls, landscape/irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 40 or 50 feet horizontally and one inch equals four, five or ten feet vertically shall be submitted to the city administrator, or designee, along with a copy of the final plat of the subdivision. The number of copies as specified by the city shall be submitted along with the final plat submittal.

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

(Ord. No. 07-01, § 2.5, 2-13-2007)

Sec. 34-37. - Final plats; information and format requirements.

(a) Format.

- (1) Copies/prints of the final plat for the proposed subdivision, drawn on sheets 24 inches by 36 inches and drawn to a known engineering scale of not smaller than 100 feet to the inch or larger scale, shall be submitted in the quantity as specified by the city (as provided in the city's plat subdivision guidelines, as may be amended from time to time). In cases of large developments which would exceed the dimensions of the sheet at 100-foot scale, final plats may be on multiple sheets or to another known engineering scale, as approved by the city administrator, or designee, and as acceptable for filing with the county.
- (2) Final plat applications which do not include the required data, completed application form, filing fee, number of copies of the plat, and/or other required information (including documentation that all required public improvements have been constructed/installed in accordance with city standards, or submission of the proper assurances/escrow funds for the completion of the improvements, per article VI of this chapter) will be considered incomplete, shall not be accepted for submission by the city, and shall not be scheduled on a planning and zoning commission agenda until the proper information is provided to the city staff. Additional copies of the final plat may be required if revisions or corrections are necessary.
- (b) All information that is required for inclusion on a preliminary plat (see section 34-35(i)), except for engineering/construction plans as such were already submitted and approved with the preliminary plat, shall be shown on the final plat. In addition to these items, the final plat shall also provide a place for the county clerk to stamp the date and location where the plat will be filed (i.e., volume/cabinet _____, page/slide _____, etc.) in the lower left-hand corner of the plat drawing. All aspects of the final plat shall conform to the standards of the county for plats (e.g., clarity, sheet size, lettering size, reproducibility, etc.). It is the applicant's/developer's responsibility to be familiar with the county's standards for filing plats and to comply with same.
- (c) Approval block. The approval block used on the previously approved preliminary plat shall be modified and shown on the final plat, as follows:

FINAL PLAT

Approved by the City of Kemp for filing at the office of the County Clerk of Kaufman County, Texas.

APPROVED BY: Planning and Zoning Commission

City of Kemp, Texas

_____ Signature of Chairperson	_____ Date
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APPROVED BY: City Council

City of Kemp, Texas

_____ Signature of Mayor	_____ Date
ATTEST:	
_____ City Secretary	_____ Date

(Ord. No. 07-01, § 2.6, 2-13-2007)

Sec. 34-38. - Replatting.

- (a) Replat required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by these regulations. All improvements shall be constructed in accordance with the same requirements as for a preliminary or final plat, as provide herein. The city administrator, or designee, may waive or modify requirements for a land study and/or preliminary plat under circumstances where the previously approved land study or preliminary plat is sufficient to achieve the purposes set forth in this chapter.
- (b) Replatting without vacating preceding plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
 - (1) Is signed and acknowledged by only the owners of the property being replatted;
 - (2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the city council (no public hearing is required by the planning and zoning commission); and
 - (3) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.
- (c) Previous requirements or conditions of approval which are still valid. In addition to compliance with subsection (b) of this section, a replat without vacation of the preceding plat must conform to the requirements of this section if:
 - (1) During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
- (d) Notice of the public hearing required under subsection (b) of this section shall be given before the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county. Notice of the public hearing shall also be given by written notice, with a copy of any requested waivers/suspension, sent to the owners, as documented on the most recently approved ad valorem tax roll of

the city, of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved county tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the city.

- (e) If the owners of 20 percent or more of the area of lots to whom notice is required to be given under subsection (b) of this section file with the city a written protest of the replatting before or at the public hearing, and if the replat requires a waiver/suspension as defined in section 34-8, the approval of the replat will require the affirmative vote of at least three-fourths of the city councilmembers present. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the city prior to the close of the public hearing. In computing the percentage of land area subject to the 20 percent rule described above, the area of streets and alleys shall be included.
- (f) Compliance with subsection (e) of this section is not required for approval of a replat or part of a preceding plat if the area to be replatted was designated or reserved for other than single-family or duplex residential use by notation on the last legally recorded plat or in the legally recorded restriction applicable to the plat.
- (g) Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information and must state on the replat the specific lots which have changed.
- (h) If the previous plat is vacated as prescribed in V.T.C.A., Local Government Code § 212.013, as amended, a public hearing is not required for a replat of the area vacated.
- (i) The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.
- (j) The title shall identify the document as a "Final Plat" of the " _____ Addition, Block _____ , Lot(s) _____ , Being a Replat of Block _____ , Lot(s) _____ of the _____ Addition, and an addition to the City of Kemp, Texas as recorded in Volume/Cabinet _____ , Page/Slide _____ of the Plat Records of Kaufman County, Texas."
- (k) 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 filing fee (per the city's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with section 34-10.
- (l) The replat shall be filed with the county in the same manner prescribed for a final plat.

(Ord. No. 07-01, § 2.7, 2-13-2007)

Sec. 34-39. - Amending plats.

- (a) An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the city's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with section 34-10.
- (b) The city administrator, or designee, may approve an amending plat, which may be recorded as is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants

only and if the amending plat is for one or more of the purposes set forth in this section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

- (1) Correct an error in a course or distance shown on the preceding plat;
 - (2) Add a course or distance that was omitted on the preceding plat;
 - (3) Correct an error in a real property description shown on the preceding plat;
 - (4) Indicate monuments set after the death, disability or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - (6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names and identification of adjacent recorded plats;
 - (7) Correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. Both lot owners join in the application for amending the plat;
 - b. Neither lot is abolished;
 - c. The amendment does not attempt to remove recorded covenants or restrictions; and
 - d. The amendment does not have a material adverse effect on the property rights of the owners in the plat;
 - (8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) Relocate one or more lot lines between one or more adjacent lots if:
 - a. The owners of all those lots join in the application for amending the plat;
 - b. The amendment does not attempt to remove recorded covenants or restrictions; and
 - c. The amendment does not increase the number of lots; or
 - (10) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or part of the subdivision covered by the preceding plat if:
 - a. The changes do not affect applicable zoning and other regulations of the city;
 - b. The changes do not attempt to amend or remove any covenants or restrictions; and
 - c. The area covered by the changes is located in an area that the city has approved, after a public hearing, as a residential improvement area.
- (c) Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- (d) The amended plat shall be entitled and clearly state that it is an "amended plat." It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.
- (e) Approval of an amended plat shall expire unless the amended plat is recorded in the plat records of the county within 90 days after the date of final approval of the amended plat.
- (f) The amended plat shall be filed with the county in the same manner as prescribe for a final plat.

(Ord. No. 07-01, § 2.8, 2-13-2007)

- (a) *By property owner.* The property owner of the tract covered by a plat may vacate, upon the approval of the planning and zoning commission and city council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the city, upon request).
- (b) *By all lot owners.* If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- (c) *Criteria.* The planning and zoning commission and city council shall approve the petition for vacation on such terms and conditions as are in accordance with V.T.C.A., Local Government Code § 212.013, and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the city council may direct the petitioners to prepare a revised final plat in accordance with these regulations such that the property does not become unplatted.
- (d) *Effect of action.* On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the planning and zoning commission's and city council's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the city nor to the return of any property or consideration dedicated or delivered to the city except as may have been previously agreed to by the planning and zoning commission and city council.
- (e) *City initiated plat vacation.*
 - (1) *General conditions.* The planning and zoning commission and city council, on its motion, may vacate the plat of an approved subdivision or addition when:
 - a. No lots within the approved plat have been sold within five years from the date the plat was signed by the city;
 - b. The property owner has breached an improvement agreement and the city is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor; or
 - c. The plat has been of record for more than five years and the city determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and/or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
 - (2) *Procedure.* Upon any motion of the planning and zoning commission or city council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the commission shall publish notice in a newspaper of general circulation in the county. The commission shall also provide personal notice to all property owners within the subdivision or addition and to the city council. The notice shall state the time and place for a hearing on the motion to vacate the subdivision or addition plat. The commission shall recommend approval and the city council shall approve the vacation only if the criteria and conditions cited above are satisfied.
 - (3) *Record of notice.* If the commission and city council approve vacating a plat, the city administrator, or designee, shall record a copy of the resolution or ordinance in the office of the county clerk a copy of the area or plat vacated. The county clerk shall write legibly on the vacated plat the word "vacated" and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded. If the commission and city council adopt a resolution or ordinance vacating a plat in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the vacated plat has no effect.

(Ord. No. 07-01, § 2.9, 2-13-2007)

State Law reference— Vacating plats, V.T.C.A., Local Government Code § 212.013.

Sec. 34-41. - Minor plats.

- (a) A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the city's plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with section 34-10.
- (b) The city administrator, or designee, may approve a minor plat, or may, for any reason, elect to present the minor plat to the planning and zoning commission and city council for consideration and approval. Any decision made on the minor plat by the city administrator, or designee, shall be approval of the plat. Should the city administrator, or designee, refuse to approve the minor plat, then the plat shall be referred to the planning and zoning commission and/or city council for consideration within the time period required by state law.
- (c) Notice, a public hearing, and the approval of other lot owners are not required for the approval of a minor plat.
- (d) The minor plat shall be entitled and clearly state that it is a "minor plat."
- (e) Approval of a minor plat shall expire unless the minor plat is recorded in the plat records of the county within 90 days after the date of final approval of the minor plat.
- (f) The minor plat shall be filed with the county in the same manner prescribed for a final plat.

(Ord. No. 07-01, § 2.10, 2-13-2007)

Secs. 34-42—34-70. - Reserved.