



**PLANNING & ZONING COMMISSION REGULAR MEETING
TUESDAY, NOVEMBER 24, 2020, 6:30 P.M.**

JUSTIN CITY HALL
415 NORTH COLLEGE STREET
(Conducted via teleconference)
There will be no public access to the City Hall location.

One or more members of the Planning & Zoning Commission may participate in this meeting remotely in compliance with the Texas Open Meetings Act or under the provisions provided by the Governor of Texas in conjunction with the Declaration of Disaster enacted March 13, 2020.

In accordance with Order of the Office of the Governor issued March 16, 2020 and March 19, 2020, the Justin Planning Commission will conduct the meeting scheduled at 6:30 p.m. on Tuesday, November 24, 2020 by telephone conference in order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19). A recording of the meeting will be made and will be made available to the public upon request.

The public dial in number to participate in the telephonic meeting is:
1 (346) 248-7799 or 1 (669) 900-9128

Webinar ID: 870 1441 0504
Password: 484738

The Zoom meeting may also be joined by clicking the following link:
<https://us02web.zoom.us/j/87014410504?pwd=NDVLWHAzM3R3RUduM2g5TzE0a1BFUT09>

CALL TO ORDER (via teleconference)

Roll Call:

- I. **CALL TO ORDER:** Invocation and Pledge of Allegiance.
- II. **PUBLIC COMMENT:**

In an effort to allow the public the ability to participate in the public comment portion and not attend the meeting in person, the City will allow the following: The public may email their comment to the Director of Development Services by 5:00 pm on Tuesday, November 24, 2020 at dgentry@cityofjustin.com.

To allow the public the ability to participate in a discussion of each agenda item and not attend in person, the City allows the public to email their comment to Director of Development Services by 5:00 p.m. on Tuesday, November 24, 2020 at dgentry@cityofjustin.com. The Director will read the email to Commission during the discussion of this item. Please include your full name and address. Please identify the agenda item to discuss in the submitted email so it can be provided to the Commission.

III. DISCUSSION:

1. Discuss and consider a comprehensive amendment to the City Noise Ordinance, Chapter 28, Article II, Section 28-29 and make a recommendation to the City Council.
2. Conduct a study session regarding the City Subdivision Ordinance, Chapter 42.

IV. CONSENT ITEMS:

3. Approve minutes from October 20, 2020 Planning & Zoning Regular Meeting.

V. FUTURE AGENDA ITEMS:

4. Specific Use Permit for Temporary Batch Plant, Specific Use Permit for Thrift Store, Amend Subdivision Ordinance, Chapter 42 and Adopt Unified Development Code.

VII. ADJOURNMENT:

I, the undersigned authority, do hereby certify that the above notice of the meeting of the City Planning & Zoning Commission of the City of Justin, Texas, is a true and correct copy of the said notice that I posted on the official bulletin board at Justin Municipal Complex, 415 North College Street, Justin, Texas, a place of convenience and readily accessible to the general public at all times, and said notice posted this 17th day of November 2020 by 5:00 p.m., at least 72 hours preceding the scheduled meeting time.

Attest:

Darrell W. Gentry

Darrell W. Gentry, Director of Planning & Development Services

NOTE: THE CITY OF JUSTIN COUNCIL CHAMBERS ROOM IS ACCESSIBLE IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE CITY WILL PROVIDE SIGN LANGUAGE INTERPRETERS FOR THE HEARING IMPAIRED, IF REQUESTED AT LEAST 48 HOURS IN ADVANCE OF THE SCHEDULED MEETING. PLEASE CALL THE CITY DEVELOPMENT SERVICES DEPARTMENT OFFICE AT 940-648-2541 OR USE TELECOMMUNICATIONS DEVICES FOR THE DEAF (TDD) BY CALLING 1-800-RELAY-TX SO THAT A SIGN LANGUAGE INTERPRETER CAN BE SCHEDULED BY CITY OFFICES.



**Planning & Zoning Commission
November 24, 2020**

Staff Report

TITLE: Discuss an amendment of the City Noise Ordinance, Chapter 28, Article II, Section 28-29.

STAFF

CONTACT: Darrell W. Gentry, Director of Planning and Development Services

RECOMMENDATION:

Conduct a discussion on an amendment of the City Noise Ordinance, Chapter 28, Section 28-29 and make a recommendation to the City Council.

SUMMARY:

The Commission held a study session in October 2020 to hear information about amending City Noise Ordinance and received comments by Justin Police Department about noise complaints and enforceability.

Some of the chief questions regarding existing ordinance were:

- What authority does a city have to regulate and enforce?
- What have the courts said about noise regulations and standards?
- What are the guidelines for drafting a municipal noise ordinance?

Staff provided a PowerPoint presentation for the prior study session and also provided other print materials. The Guidelines for Drafting a Noise Ordinance document has been used to prepare and present the attached Draft Noise Ordinance.

The Texas Local Government Code Chapter 51 grants cities, but not counties, general police powers to establish and enact their own ordinances governing noise regulations. Texas Penal Code states that “a person commits an offense if he or she intentionally or knowingly...makes unreasonable noise... in or near a private residence that he or she has no right to occupy.” Sec 42.01 (c)(2). The Penal Code further states that a noise is “presumed unreasonable if the decibel level exceeds 85 where it is observed by others.” State laws for disorderly conduct also come into play for noise complaints, Sec 42.01 of Texas Code.

As previously discussed, many municipal noise ordinances arose from the 1972 Noise Pollution and Abatement Act (federal). The City’s current ordinance was originally enacted in 1962 with the most recent amendment in 2013.

Areas of Concern for Existing City Regulations:

- Unclear Purpose and Intent statement
- Enforcement must be capable and practical



- Must have State authority to enact regulations
- Must distinguish between qualitative vs. quantitative standards
- Must take into federal and state constitutional legislation, free speech issue
- Provide measurement standards that are clear
- What are the tools for “reasonableness standard” which are absent or unclear in the current ordinance? This is important if the local ordinance should criminalize excessive noise and does not include a “reasonableness standard”.

This proposed amendment will provide an update to the 2013 amendment and provides clarity to enforceability, provides a clear purpose statement and aligns ordinance regulation with recent court decisions. Also, the draft ordinance defines its authority as based on State law and avoids constraints that could affect free speech provisions of state and federal constitutions, and provides for a “reasonableness standard” within the draft ordinance.

ACTION REQUESTED:

- 1) Conduct a discussion about the proposed amendment of the noise ordinance as presented.
- 2) Hear any public testimony about the proposed amendment to City Noise Ordinance.
- 3) Make a recommendation to the City Council regarding adopting the proposed ordinance.

STAFF RECOMMENDATION:

Staff recommends the Commission discuss and make a recommendation to the City Council to adopt the proposed amendment of the City Noise Ordinance as presented.

ATTACHMENT:

- 1) City Noise Ordinance

EXHIBIT “A”**NOISE ORDINANCE****Sec. 28-29. - Noise nuisances.****a) *Purpose and intent.***

The purpose and intent of this section is to minimize the exposure of residents to the potential physiological and psychological harm of noise and to protect, promote, and preserve the public health, comfort, convenience, safety, and welfare.

It is the express intent of the City Council to control the level of noise in a manner that promotes commerce; protects the sleep and repose of residents; promotes the use, value, and enjoyment of property; and preserves the quality of the environment.

b) *Definitions.*

Terminology used in this section shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accountable official means a city officer or employee designated by the City Manager with a particular administrative or enforcement responsibility under this section.

Construction means any site preparation, assembly, erection, substantial repair, alteration, demolition, or similar action, for or of public or private rights-of-way, structures, utilities or similar property.

Construction non-peak hours means those hours before 7:00 a.m. or after 8:00 p.m. Monday through Friday and before 9:00 a.m. or after 8:00 p.m. on Saturday and Sunday.

Decibel means a unit for measuring the volume of sound, delineated as dB (A) or dB(C).

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage which demands immediate action.

Event impact plan means a plan required in connection with approval of a sound permit.

Noise disturbance means sound which exceeds the prescribed decibel limits set out in this ordinance at any point on the property boundary of the property which contains the source of the sound, and is presumed to constitute a nuisance subject to the penalties set out in this section.

Outdoor music venue means a commercial property that is not fully enclosed by permanent, solid walls and a roof, where sound equipment is used to amplify sound.

Residential impact zone (RIZ) means any area within 500 feet of a nonresidential zone (GB, LI, and LR) which is zoned residential; and contains dwellings.

Responsible party means a sound engineer, audio professional or other person authorized to make decisions regarding the use of sound equipment permitted by provisions and standards of this ordinance.

Sound means an oscillation in pressure, particle displacement, particle velocity of other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include, but not be limited to, any characteristics of such sound, including duration, intensity and frequency.

Sound equipment means a loudspeaker, public address system, amplification system, or other sound producing or transmitting device.

Sound level means the weighted sound pressure level obtained by the use of a sound level meter.

Sound level meter means an instrument which includes a microphone, amplifier, output meter, and weighting networks which can be used to measure sound pressure levels.

Temporary event means an event as described under the permits section and identified as: requiring a short-term sound permit or an outdoor event sound permit.

Vibration means an oscillating, reciprocating or other periodic motion that is detectable through observation or touch; noise induced vibrations are defined as the vibrations of the primary components of the building such as the walls and windows, the rattling of objects such as dishes, ornaments or shelves which are set in motion by the vibration of the primary components.

c) **General noise violations.**

- (1) It shall be unlawful for a person to make or cause any unreasonably loud or disturbing noise, which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof.
- (2) It shall be unlawful for any person to make or cause any noise of such character, intensity and continued duration as to substantially interfere with the comfortable enjoyment of private homes by persons of ordinary sensibilities.
- (3) Use sound equipment at a business or residence that creates a noise disturbance or that creates vibration that is perceptible by an enforcement official at any other property boundary;
- (4) The following acts, among others, are declared to be noise nuisances in violation of this chapter, but such enumeration shall not be deemed to be exclusive:
 - a. The playing of any phonograph, television, radio, or any musical instrument in such manner or with such volume, so as to be clearly audible to a person in a residence the person playing the instrument does not have the right to occupy; and

1. During the daytime, measure more than seventy (70) dba on the A-weighting scale on an approved sound-level meter at more than fifty (50) feet from the source; or
 2. During the nighttime, measure more than sixty-five (65) dba on the A-weighting scale on an approved sound-level meter at more than fifty (50) feet from the source; or
 3. During the daytime, in a multi-family dwelling, measure more than fifty-five (55) dba on the A-weighting scale on an approved sound-level meter in any adjacent unit; or
 4. During the nighttime, in a multi-family dwelling, be clearly audible within any unit that is not the source of the sound.
- b.** The use of any stationary loudspeaker, amplifier, musical instrument, or sound amplifying equipment in such a manner or with such volume so as to be clearly audible to a person in a residence the person using the instrument does not have the right to occupy; and
1. During the daytime, be of such intensity and volume so as to measure more than seventy (70) dba on the A-weighting scale on a sound-level measuring device at more than fifty (50) feet from the source; or
 2. During the nighttime, be of such intensity and volume so as to measure more than sixty-five (70) dba on the A-weighting scale on a sound-level measuring device at more than fifty (50) feet from the source; or
 3. During the daytime, in a multi-family dwelling, measure more than fifty-five (55) dba on the A-weighting scale on an approved sound-level meter in any adjacent unit; or
 4. During the nighttime, in a multi-family dwelling, be clearly audible within any unit that is not the source of the sound; or
 5. At any time on Sunday.
 - a. Provided, however, that the city council may make exceptions upon application for sound levels or hours of operation when the public interest will be served thereby.
- c.** The creation of vibration or bass reverberations at any time that is perceptible inside a complaining person's residence, through the sense of touch, or through visual observation of moving objects, or through the sense of hearing.
- d.** The use of any radio, stereo, amplifier, sound amplifying equipment, or other musical device installed or contained in a motor vehicle at a volume such that it is clearly audible to any person from more than thirty (30) feet from the vehicle.
- e.** The blowing of any steam whistle attached to any stationary boiler or the blowing of any other loud or far-reaching steam whistle within the city limits, except to give notice of the time to begin or stop work or as a warning of danger;

- f. Construction work which creates a noise disturbance is prohibited as follows except in the case of an emergency:
 - 1. Before 7:00 a.m. or after 8:00 p.m. Monday through Friday.
 - 2. Before 9:00 a.m. or after 8:00 p.m. Saturday and Sunday.
 - 3. Operate construction or industrial machinery or equipment during construction non-peak hours that creates a noise disturbance;
- g. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or containers;
- h. The use of any drum, loudspeaker, or other instrument or device for the purpose of attracting attention by the creation of noises to any performance, show, theater, motion picture house, sale of merchandise, or display which causes crowds or people to block or congregate upon the sidewalks or streets near or adjacent thereto.
- i. Solid waste collection which creates a noise disturbance before 6:00 a.m. or after 9:00 p.m. is prohibited.
- j. The unnecessary operation of any vehicle engine which creates a noise disturbance is prohibited. The operation of any vehicle so out of repair, so loaded or in such manner as to create a noise disturbance is prohibited. No person shall operate a motor vehicle so as to brake or slow the vehicle through the use of compression release engine brake or engine brake (commonly known as "Jake braking") or by any other method which produces a noise disturbance.
- k. The use of a bullhorn, loudspeaker, or other amplification is prohibited in the public right-of-way and on city property, unless permitted as an exception by this section.
- l. It is unlawful to keep, or to permit the keeping of any bird or animal that creates any bark, cry, crow, or other sound on a frequent, repetitive or continuous basis for ten minutes or longer, that is audible beyond the property boundary.

d) *Sound permits and permit process.*

(1) Permits shall be required to

- a) Operate sound equipment which will be plainly audible to the public as prescribed by this section.
- b) Use sound equipment for music that involves the amplification of sound from instruments, vocal and instrument microphones, turntables, and digital or analog devices used as part of a performance requiring human operation.
- c) Use of non-amplified and acoustic performances, if the sound produced is plainly audible to the public as prescribed by this section.
- d) Authorize non-peak hour construction which is likely to create a noise disturbance.

(2) Types of Sound Permits

- a. *Venue sound permit.*** A permit may be granted for a maximum of one year, wherein the producer and venue are in compliance with all items designated below:
 1. Up to 70 dB(C), when measured for two minutes at any property boundary.
 2. Between the hours of 10:00 a.m. and 10:00 p.m. on Sunday through Thursday and 10:00 a.m. and 1:00 a.m. the following morning on Friday or Saturday.
 3. In appropriately zoned areas of the city.
- b. *Short-term sound permit.*** A permit may be granted for a maximum of 24 hours, wherein the producer and venue are in compliance with all items designated below:
 1. Up to 70 dB(C), when measured for two minutes at any property boundary.
 2. Between the hours of 10:00 a.m. and 10:00 p.m. on Sunday through Thursday and 10:00 a.m. and 12:00 midnight on Friday or Saturday.
- c. *Outdoor event sound permit.*** A permit may be granted for a maximum of four days, wherein the producer is in compliance with all items designated below:
 1. Up to 85 dB(C), when measured for two minutes at 200 feet from the source.
 2. Up to 75 dB(C), when measured for two minutes at any property boundary.
 3. Between the hours of 10:00 a.m. and 10:00 p.m.

(3) Permit process.

- a.** Application submitted to the accountable official, along with payment of application fee.
- b.** Notices of application are sent within ten (10) days after receipt of fully completed application. (See subsection (k) of this section for notice detail.)
- c.** Accountable official shall issue a report and decision within 30 days after receipt of fully completed application.
- d.** If the permit application is to be granted, the permit fee must be paid in full before the permit will be issued.

(4) Permit review.

- a.** After receiving an application, the accountable official shall conduct an application review, based on the type of permit sought and its potential impacts to the surrounding community.

The application review may include on-site assessments and sound measurements, discussions with nearby residents and business owners, and any additional research relevant to assessing potential impacts.

- b.** Within 30 days of receiving a completed application, the accountable official shall prepare a report detailing any conditions and restrictions. If necessary to protect public health and safety, the accountable official may recommend limits on attendance and capacity and more restrictive decibel (dB(C)) limits and hours and operation than required under the permit restrictions.

The report shall note approval or denial of the sound permit and shall outline the reasoning for the decision.

- c.** The accountable official shall base the report on the following factors:
 1. Suitability of the site for music based on topography and proximity to existing and future residential, commercial, and civic uses;
 2. Size and capacity of the site or venue covered by the permit;
 3. Sound-mitigating or attenuating design features proposed in the application, including building design, stage construction and orientation, buffering, size, location, and orientation of speakers;
 4. Restrictions on decibel (dB(C)) levels or hours of operation proposed by the applicant, if any, beyond those required by this section for the permit sought;
 5. Ownership and operation of decibel (dB(C)) meters;
 6. Availability of a responsible party to attend and monitor music events;
 7. Potential for additional sound mitigation or attenuation; and
 8. The history of noise complaints and violations at the site, as verified by the chief of police or the accountable official.

(5) Application requirements.

- a.** An application for a sound permit must include:
 1. The name, address, and telephone number of the applicant;
 2. The address or a description of the location of the property where the sound equipment will be used;
 3. The times of day and days of the week during which the sound equipment will be used;
 4. An event impact plan as required by subsection (1) of this section;
 5. The application fee; and
 6. A statement that the applicant has read and understands the city sound ordinance and is willing to comply with the rules established therein.
- b.** An application for a short-term sound permit or an outdoor event sound permit shall be submitted no later than 30 days prior to the start of a proposed multi-day event.

(6) Event impact plan.

- a.** An event impact plan is required with each application for venue sound permit, short-term sound permit, or outdoor event sound permit.
- b.** An event impact plan must include specifications of the following elements:
 - 1. Stage construction and orientation;
 - 2. Size, location, and orientation of speakers; and
 - 3. A sound buffering plan.
- c.** Information specifying the following:
 - 1. Availability of on-site sound level meter;
 - 2. Identification and contact information of a minimum of two responsible persons to be present at events requiring the use of sound equipment;
 - 3. Anticipated attendance, based on event capacity and promotion;
 - 4. Availability of parking for motor vehicles and event service vehicles; and
 - 5. Availability of food and alcohol.
- d.** An event impact plan may include more restrictive decibel (dB(C)) levels than outlined in this section, as well as limits on attendance, capacity, and hours of operation.

(7) Additional review for temporary events. The accountable official shall consider the following factors in reviewing an application for short-term sound permit or an outdoor event sound permit:

- a.** Anticipated attendance, based on event capacity and promotion;
- b.** Likely impacts on traffic and public right-of-way;
- c.** Availability of parking and loading for motor vehicles and parking for bicycles;
- d.** Adequacy of planning for security and emergency services;
- e.** Level of event insurance coverage;
- f.** Availability of food and alcohol and appropriate permits for such;
- g.** Cumulative impacts of events in the vicinity of the proposed event, for which permits have been issued or applications submitted; and
- h.** Public health and safety.

(8) Notice of application.

- a.** Not later than the ten (10) days after receiving a permit application, the accountable official shall provide notice of the application under this section.
- b.** The accountable official shall mail notice to:
 - 1. The applicant;

2. The owner of a single-family property located within 200 feet of the site or property included in the application;
 3. Owner and/or property manager of a multifamily property located adjacent to the site or property included in the application; and
 4. Any registered neighborhood organizations or homeowners associations, whose declared boundaries are within 200 feet of the site or property included in the application.
- c.** Notice required under this section must:
1. Describe the general nature of the application;
 2. Identify the applicant and the location of the site or property included in the application;
 3. Describe:
 - a. The venue and duration of proposed events;
 - b. The size of the venue and anticipated attendance; and
 - c. Whether the sale or consumption of alcohol will be allowed at the event.
 4. Provide contact information for the accountable official;
 5. State the earliest date that an application decision may be made; and
 6. Describe the requirements for becoming an interested party and for appealing a decision on the application.
- d.** Notice required under this section is effective on the date a letter is deposited in a depository of the U.S. Postal Service, postage paid, and addressed to:
1. An applicant, by mailing notice to the property owner or agent at the address shown on the application;
 2. A notice owner of real property, by mailing notice to the owner shown on the records of the county tax appraisal district;
 3. A record owner of real property, by mailing notice to the owner at the street address of the property or, if the property does not have a street address, to the return address shown on the deed; and
 4. A neighborhood organization or homeowners' association, by mailing notice to the agent or officer of the organization.
- e.** Notice by hand delivery may be substituted for notice by mail, if the addressee provides a receipt of delivery.
- f.** The accountable official shall forward notice provided under this section to appropriate city staff, including, but not limited to, the City Police Department, Justin Fire Department, and/or Justin Fire Marshal.
- g.** Within 14 days after notice is provided under notice of application, an applicant for a temporary event permit may voluntarily revise the application

to request a permit of shorter duration. Such revision does not create a requirement of additional notice.

(9) Permit and application fees. The city council will establish application and permit fees by separate ordinance or resolution.

(10) Administrative appeals. If the accountable official denies an application for a sound permit under this section, an applicant may appeal the decision to the city council.

- a. An appeal must be filed with the city secretary, in writing, no later than the tenth day after the date the decision is issued and must describe the decision being appealed and the specific grounds for the appeal.
- b. No later than the 30th day after receiving a request for an appeal, the mayor shall schedule a hearing to consider the appeal.
- c. The city council may sustain, reverse, or modify the action appealed. The city council's decision is final.

e) Enforcement and Penalties

(1) Sound measurement criteria. For purposes of this chapter, sound measurements will be made using the A-weighting scale on an approved sound-level meter, based on the reference sound pressure (0 dba). Measurement times will be no less than two (2) minutes in length, and violations will be determined based on the highest registered reading in that measurement period. All measurement levels will be inclusive of any ambient noise that exists at the time of the measurement.

(2) Enforcement. The provisions of this section shall be enforced by the police department and code compliance department or the accountable official.

(3) Penalties.

- a. A person commits an offense if the person makes noise in violation of this section.
- b. An offense under this section is a Class C misdemeanor, punishable by a fine of not more than \$500.00.
- c. Each occurrence of a violation constitutes a separate offense and may be punished separately.
- d. A violation of this section is a nuisance. The prosecution of an offense under this section does not limit the city's right to abate the nuisance, including the use of injunctive or other civil relief.

(4) Denial of permit for repeated offenses. The accountable official may refuse to issue a permit or to renew an existing permit if:

- a. The permit holder is convicted of more than two violations of a permit issued under this section;
- b. The venue where the sound equipment will be used is the location of more than two violations of a permit issued under this section, and the location has not changed ownership within the permit period; or

- c. A previously issued sound permit has been revoked from the permit holder or from the location identified in the sound permit application.
- (5) **Revocation of sound permit.** The accountable official shall revoke a permit issued under this section if:
- a. The permit was issued in error;
 - b. The permit holder has not complied with the requirements of this section;
 - c. If the permit holder is convicted of more than two violations of a permit issued, during the duration of that permit; or
 - d. If two or more conditions of the event impact plan have been violated and the responsible person as identified on the permit application has failed to correct the violations after notification.

A revocation order remains in effect indefinitely, including during the pendency of an appeal under this section.

- f) **Exemptions.** The following exemptions are hereby specified and apply to:
- (1) An employee of a governmental entity engaged in the employee's official duty;
 - (2) A city-sponsored or approved event at a stadium or ball-park during a sports event;
 - (3) An authorized parade or street event;
 - (4) Operating a bell for a religious activity;
 - (5) Emergency vehicles;
 - (6) Audible warning device on a vehicle or train as required by state law;
 - (7) Airport or railway transportation; or
 - (8) A person or venue that has been issued a permit that authorizes the use of sound equipment.



**Planning & Zoning Commission
November 24, 2020**

Staff Report

TITLE: Conduct a Study Session discussion on amending the City Subdivision Ordinance, Chapter 42.

STAFF

CONTACT: Darrell W. Gentry, Director of Planning and Development Services

RECOMMENDATION:

Conduct a discussion on amending the existing City Subdivision Ordinance, Chapter 42.

SUMMARY:

The Commission has held study sessions since early 2020 hearing information about City Ordinances and various changes. As a result, staff has identified and brought forward a number of ordinance amendments for Commission consideration and recommendation to the City Council.

This evening is about amending the City Subdivision Ordinance.

This study session is to exam SUBDIVIDING a.k.a. platting. We will talk about:

- Why do we need to talk about platting/subdividing?
- What authority does a city have to regulate and enforce?
- What have the courts said about subdividing/platting regulations and standards?
- What are the guidelines for drafting a subdivision ordinance?

Staff will provide a PowerPoint presentation for this study session and provide other print materials on this topic. This ordinance has been amended recently to update and add a Technical Standards & Specifications Manual for construction and public improvement specifications on products.

The Texas Local Government Code Chapter 212 grants cities general powers and rights to regulate the subdivision and development of lands within its boundaries and Extra Territorial Jurisdiction (ETJ). Chapter 42 of the City's Code of Ordinances is the codified ordinance used by City staff, our consultants, developers and builders to subdivide lands and construct public and private improvements in newly created lots.

During the past two years of implementing Chapter 42, there have been so gaps in regulation that have been identified and need to be resolved by amending the existing ordinance. Additionally, there is a need to improve the clarity and language content to make it more understandable to every person attempting to use or understand the ordinance requirements.

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The present ordinance gaps in regulation or clarity that City Engineer, Public Works Director, Building Official and Planning & Development Services Director have identified are:

Areas of Concern for Existing City Regulations:

- No lot grading certifications to govern or guide developer/builders on their individual or collective responsibilities to adhere or follow City requirements.
- The present ordinance is far too wordy and lacks overall clarity to many readers and users.
- Lot designing requirements do not take into account alternatives to conventional grid pattern design, nor facilitate the elimination of waste in land planning and designing.
- There is a need to clarify language in the ordinance. Some ordinance provisions are not in align with other city regulations or current practices for implementation.
- There are no delegated responsibilities in simplify the overall procedures and timeframes for processing. There is no clear alignment with new state processing deadlines.

ACTION REQUESTED:

- 1) Conduct a discussion about amending the current subdivision ordinance to address areas of concerns as well other items as may be identified by the Commission.
- 2) Hear any public testimony about amending the existing City Subdivision Ordinance.
- 3) Give any appropriate direction to staff regarding ordinance changes to be brought back.

STAFF RECOMMENDATION:

Staff recommends the Commission discuss and give direction to staff regarding any proposed amendments.

ATTACHMENT:

- a) Existing City Subdivision Ordinance

Chapter 42 - SUBDIVISION REGULATIONS^[1]

Footnotes:

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Editor's note— Ord. No. [662-19](#), § 2(Exh. A), adopted Jan. 14, 2019, amended ch. 42 in its entirety to read as herein set out. Former ch. 42, §§ 42-1—42-14, 42-32—42-36, 42-61—42-63, 42-85—42-88, 42-120—42-126, 42-151—42-158, and 42-185—42-197, pertained to subdivisions, and derived from Code 1994, ch. 9, §§ 4-100, 4-200; Code 1994, ch. 9, arts. 3, 5—55; Ord. No. 248, exh. A(arts. 3—55), adopted Mar. 24, 1997; Ord. No. 279, § 1, adopted Dec. 13, 1999; Ord. No. 344, § 1, adopted Nov. 11, 2002; and Ord. No. 419, §§ 1, 2, adopted Feb. 12, 2007.

ARTICLE I. - GENERAL PROVISIONS

Sec. 42-1. - Authority.

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

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-2. - Interpretation and purpose.

In the interpretation and application of the provisions of these regulations, it is the intention of the city council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the City of Justin and its jurisdiction, amending certain other ordinances of the city and superseding the previous subdivision chapter. Where other ordinances of the city are more restrictive in their requirements, such other ordinances shall control.

Subdivision of land is the first step in the process of urban development. The distribution and relationship of residential, commercial, industrial, and agricultural uses throughout the community along with the system of improvements for thoroughfares, utilities, public facilities, and community amenities determine in large measure the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community's quality of life character. A community's quality of life is 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 designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities and other needs necessary for insuring the creation and continuance of a healthy, attractive, safe, and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this chapter further the possibility that land will be developed for its most beneficial use in accordance with existing social economic and environmental conditions.

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

- (a) Promote the health, safety, morals and general welfare of the community and the safe, orderly and healthful development of the city;
- (b) Establish adequate policies and procedures to guide development of the city and its extraterritorial jurisdiction;
- (c) Provide for the establishment of minimum specifications for construction and engineering design criteria for public infrastructure improvements to maintain land values, reduce inconveniences to residents of the area, and to reduce related unnecessary costs to the city for correction of inadequate facilities that are designed to serve the public;
- (d) Ensure that development of land and subdivisions shall be of such nature, shape and location that utilization will not impair the general welfare;
- (e) Ensure against the dangers of fires, floods, erosion, landslides, or other such menaces;
- (f) Preserve the natural beauty and topography of the city and to ensure appropriate development with regard to these natural features;
- (g) Realistically and harmoniously relate new development of adjacent properties;
- (h) Ensure that public facilities for streets, alleys, water distribution, drainage, collection and disposal of sanitary wastewater, and parks are available for every building site and with adequate capacity to serve the proposed subdivision before issuance of a certificate of occupancy or release of utility connections or final inspection within the boundaries of the plat;
- (i) Assure that new development adequately and fairly participates in the dedication and construction of public infrastructure improvements that are necessitated by or attributable to the development or that provide value or benefit that makes the development feasible;
- (j) Help prevent pollution, assure the adequacy of drainage facilities, control storm water runoff, safeguard both groundwater and surface water supplies, and encourage the wise use and management of natural resources throughout the city and its extraterritorial jurisdiction in order to preserve the integrity, stability, and beauty of the community and the value of the land; and
- (k) Promote and develop the utilization of land in a manner to assure the best possible community environment in accordance with the master plans and the zoning ordinance of the city;
- (l) Guide and assist the subdividers in the correct procedures to be followed and to inform them of the standards which shall be required;
- (m) Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities and essential areas and services required;
- (n) Assist orderly efficient and coordinated development within the extraterritorial jurisdiction;
- (o) Promote neighborhood conservation and prevent the development of slums and blight;
- (p) Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts;
- (q) Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or subdividers of the tract, and that cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community;
- (r) Provide the best possible design for each tract being subdivided;
- (s) Provide the most attractive relationship between the uses of land and buildings and the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide the proper location and width of streets;

- (t) Establish adequate and accurate records of land subdivision;
- (u) Ensure that public or private facilities are available and will have a sufficient capacity to serve proposed subdivisions and developments within the territorial jurisdiction;
- (v) Encourage and promote open-space, park land and recreation space opportunities located within residential neighborhoods;
- (w) 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;
- (x) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and
- (y) Encourage the development of a stable, prospering economic environment.

Minimum standards for development are contained in the zoning ordinance, the building and construction codes and in this chapter. However, the future land use plan expresses policies designed to achieve an optimum quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design should be of a quality to carry out the purpose and spirit of the policies expressed in the plan and in this chapter, and is encouraged to exceed the minimum standards required herein.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-3. - Application of regulations.

Before any pre-application proposal, plan, plat, amended plat or replat of a subdivision or addition of land within the City of Justin or its extraterritorial jurisdiction is recorded with the county clerk, it shall first be approved in conformity with the provisions of this chapter. No transfer of land in the nature of a subdivision as defined herein shall be exempt from the provisions of this chapter unless otherwise specified, even though the instrument or document of transfer may describe land so subdivided by metes and bounds. The filing of any plan, plat, amended plat or replat without complying with the requirements of this chapter shall be deemed a violation of the provisions of this chapter and is hereby prohibited. The transfer of any land by the delivery of or by the filing of any instrument in the nature of a conveyance without having first complied with the requirements set forth herein shall be deemed a violation of the provisions of this chapter and is hereby prohibited. There is, however, excepted from the provisions of this chapter any conveyance transferring any land or interest in land to or from the State of Texas or City of Justin, Texas. No subdivision plat shall be recorded until a final plat, replat, minor plat or amending plat accurately describing the property to be conveyed has been approved in accordance with these subdivision regulations. Furthermore, no building permit, or certificate of occupancy, or plumbing permit, or electrical permit, or utility tap or certificate of acceptance for required public improvements shall be issued by the city for any parcel or plat until:

- (a) A plat has been approved in accordance with these regulations;
- (b) All water, wastewater, streets, drainage, electrical, public utilities and park improvements, whether they are public or private, as required by these regulations, have been constructed and accepted by the city in accordance with articles IV and V of this chapter, the city's technical construction standards and specifications (TCSS) or other applicable regulations; and
- (c) To carry out the purposes hereinabove stated, it is declared to be the policy of the city to guide and regulate the subdivision and development of land in such a manner as to promote orderly growth both within the city and where applicable, within its extraterritorial jurisdiction, it is determined that:
 - (1) Land must not be platted until proper provision has been made for adequate public facilities for roadways, drainage, water, wastewater, public utilities, capital improvements, parks, recreation facilities, and rights-of-way for streets;

- (2) Proposed plats, or subdivisions which do not conform to the policies and regulations shall be denied, or, in lieu of denial, disapproved conditioned on conformance with conditions; and
- (3) There shall be an essential nexus between the requirement to dedicate rights-of-way and easements and/or to construct public works improvements in connection with a new subdivision and the need to offset the impacts on the city's public facilities systems created by such new development.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-4. - Owner consent.

Except as otherwise expressly provided herein, the written consent of the owner of any tract of land to be subdivided in accordance with the terms of this chapter shall be required for any application relating to or for a plat, replat, pre-application proposal, plat amendment, or any application to be reviewed by the development review committee. The owner's representative may provide the required written consent in place of the owner if the representative has, in a form acceptable to the city attorney, express written authority to act on behalf of the owner. The owner's written consent shall be required in accordance with this section, regardless of whether this chapter refers to the party making application to the city pursuant to this chapter as "owner," "subdivider," "person," "developer" or "applicant."

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-5. - Jurisdiction.

As authorized by Sub-chapters A and B of Chapter 212 of the Local Government Code, the provisions contained in the following sections of these subdivision regulations shall apply to any of the following forms or types of land subdivision and development activity within the city limits or its extraterritorial jurisdiction.

- (a) The division of land into two or more tracts, lots, sites or parcels; or
- (b) All subdivisions of land, whether by metes and bounds division or by plat, which were outside the jurisdiction of the city's subdivision regulations in Denton County, Texas and which subsequently came within the jurisdiction of the city's subdivision regulations through:
 - (1) Annexation; or
 - (2) Extension of the city's extraterritorial jurisdiction.
- (c) The division of land previously subdivided or platted into tracts, lots, sites or parcels subject to and not in accordance with adopted city subdivision regulations in effect at the time of such subdividing or platting; or
- (d) 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
- (e) When a building permit is required on property for the following reasons but not limited to:
 - (1) New construction;
 - (2) Moving of a primary structure onto vacant property; or
- (f) For tracts where any public improvements are proposed; or
- (g) Whenever a property owner proposes to divide land lying within the City or its extraterritorial jurisdiction into two or more tracts for purpose of development, that results in parcels or lots all greater than five acres in size, or in the event that development of any such tract is intended,

and where no public improvement is proposed to be dedicated, he shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Chapter 212, subchapter B. See section 42-49 for requirements for development plats.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-6. - Exemptions.

The provisions of these subdivision regulations shall not apply to:

- (a) Land legally platted and approved prior to the effective date of these subdivision regulations except as otherwise provided for herein (construction of facilities shall conform to construction standards in effect at the time of construction); or
- (b) 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 Denton County, Texas on or before March 24, 1997 (adoption date of current ordinance); or
- (c) Inheritance or gift of land within immediate family by metes and bounds of tracts on which no improvements or alteration is occurring; or
- (d) Existing cemeteries complying with all state and local laws and regulations (does not apply to new cemeteries or expansion of existing cemeteries); or
- (e) Divisions of land created by order of a court of competent jurisdiction; or
- (f) When a building permit is requested for unplatted or already platted parcels for the following activities:
 - (1) Replacement or reconstruction of an existing primary single-family or duplex structure but not to exceed the square footage of the original structure.
 - (2) Additions (increase in square footage of structure) constituting not over 60 percent of the existing structure's value and not over 50 percent of the gross floor area.
 - (3) Accessory buildings.
 - (4) Remodeling or repair (no expansion of square footage).
 - (5) Moving a structure off a lot or parcel or for demolition permit.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-7. - Applicable law.

All applications for plat approval, including final plats, pending on the effective date of these regulations and which have not lapsed shall be reviewed under regulations in effect immediately preceding the date of adoption of these regulations.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-8. - Interpretation, conflict and separability.

- (a) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- (b) *Conflict with other laws.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute of other provision of law except as provided in these

regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or other provision of law, the provision which is more restrictive or imposes higher standard shall control.

- (c) *Severability.* If any part of the provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The city council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-9. - Saving provision.

These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or 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 adopting of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the city except as shall be expressly provided in these regulations.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-10. - Superseding regulations.

Upon the adoption of these regulations according to law, all subdivision regulations of the City of Justin previously in effect are hereby superseded, except as provided in section 42-6 (Exemptions).

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-11. - Amendments.

For the purpose of protecting the public health, safety and general welfare, the planning and zoning commission and city council may from time to time propose amendments to these regulations which shall then be approved or disapproved by the city council at a public meeting.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-12. - Variances.

- (a) *General.* The city council may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured when it finds that unreasonable hardships or difficulties may result from strict compliance with these regulations, and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. Any variance granted shall not have the effect of nullifying the intent and purpose of these regulations. When considering a variance, the city council shall consider the following:
- (1) The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
 - (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 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 future land use plan, thoroughfare plan, and other adopted plans, except that those documents may be amended in the manner prescribed by law.
- (b) *Conditions.* In approving variances, the city council may require such conditions as will, in its judgment secure substantially the purposes described in section 42-2 (Interpretation and purpose).
- (c) *Procedures.*
- (1) An application for each variance shall be submitted in writing by the property owner or subdivider to the development review committee (DRC) by the DRC pre-application deadline as a part of the pre-application proposal for DRC review. The application shall state fully the grounds for the variance request and all of the facts relied upon by the petitioner and it shall be the burden of the applicant or subdivider to provide in writing the requisite evidence for each variance request in response to the procedural requirements found in sections 42-12(a)(1)—(4) in order for the city council to make their findings.
 - (2) Where a hardship is identified in a land study which will result in a request for a variance, the planning and zoning commission may recommend a conditional variance. A conditional variance shall receive final approval along with a preliminary plat provided that the preliminary plat conforms to the land study and no new information or reasonable alternative plan exists which, at the determination of the city council, voids the need for a variance.
 - (3) All variances shall have final approval or disapproval by the city council.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-13. - Enforcement, violations and penalties.

- (a) *Violations and penalties.* Any person, firm or corporation who violates any of the provisions of this chapter or who fails to comply with any provision hereof shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not to exceed \$500.00 and each day that such violation continues shall constitute a separate offense. Prosecution or conviction shall not be a bar to any other remedy authorized by this or other law.
- (b) *Civil enforcement.* Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the city or within the city's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-14. - Payment of all indebtedness attributable to a specific property required prior to hearings before city council, or planning and zoning commission.

No person who owes delinquent taxes, delinquent paving assessments or any other delinquent debts or obligations, and which are directly attributable to a piece of property shall be allowed to record an approved plat until the taxes, assessments, debts, or obligations directly attributable to said property and owned by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city manager has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that the taxes have been paid at time of platting.

Proof of paid taxes shall be in the form of a tax certificate bearing the seal of the county tax assessor, procured less than 30 days prior to time of platting. The certificate(s) must attest to paid taxes on all property being platted.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-15. - Right to deny hearing.

The city shall have the right to deny or delay a hearing if the person or applicant proposing a subdivision of land does not:

- (a) Submit all the information necessary and required for a pre-application proposal and/or plat application by the required deadlines;
- (b) Pay the required application fees;
- (c) Fail to provide any other items or information as prescribed by this and other applicable sections.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-16. - Misrepresentation of facts unlawful.

- (a) It shall be unlawful for any person to knowingly or willfully misrepresent or fail to include, any information required by this chapter on any application for annexation, zoning, development, or subdivision of property.
- (b) Penalties and exceptions. If any applicant for such hearing, or any owner of property subject to such hearing, shall allow such hearing before the planning and zoning commission and/or the city council to be heard in violation of any of the provisions of this chapter, such person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as per section 42-13.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-17. - Definitions.

For the purpose of this chapter, 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 include the singular number and words in the singular number include the plural number. 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.

Addition means one lot, tract or parcel of land lying within the corporate boundaries of the city which is intended for the purpose of development.

Administrative officers means any office referred to in this chapter, or ordinance, by title, i.e., city manager, city attorney, city secretary, city planner, development coordinator, city engineer, director of public works, etc., shall be the person so retained in this position by the city, or the duly authorized representative. This definition shall also include engineering, planning and other consultants retained by the city to supplement or support existing city staff as deemed appropriate by the city.

Alley means a minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

Amending or amended plat means a revised plat correcting errors or making minor changes to the original recorded final plat as described in Chapter 212.016 Amending Plat of the Texas Local Government Code, as amended.

Amenity means an improvement to be dedicated to the public or the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this chapter.

Approved public access easement or approved public place means an easement designated on the final plat which provides access to all platted lots. The easement shall meet all of the requirements as set forth for a dedicated street (i.e. construction standards, width, and function) but may be privately maintained.

Block length means, for a residential subdivision, that distance of a block face measured along the centerline of a right-of-way from one street intersection to another or to the midpoint of a cul-de-sac or to a 90 degree turn.

Bond means any form of a surety bond in an amount and form satisfactory to the city.

Building line/building setback line means a line within a property defining that point beyond which no part of a building or other structure shall project. The minimum horizontal distance a structure must be from a property line.

Capital improvements program means the official proposed schedule of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by city council.

City means the City of Justin, Texas, together with all its governing and operating bodies.

City council means the duly elected governing body of the City of Justin, Texas.

City engineer shall apply only to such registered professional engineer or firm of registered professional consulting engineers that has been specifically employed by the city.

City manager means the person holding the position of city manager as appointed by the city council according to the city Charter.

Concept plan means a sketch drawing of initial development ideas superimposed on a topographic map to indicate generally the plan of development and to serve as a working base for noting and incorporating suggestions of the development review committee and development coordinator, planning and zoning commission, engineer, or others who are consulted prior to the preparation of the preliminary plat.

Construction plan or drawing means the maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the city as a condition of the approval of the plat.

Contiguous lots means at least one boundary line of one lot touches a boundary line or lines of another lot.

Cul-de-sac means a street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

Dead end street means a street, other than a cul-de-sac, with only one outlet.

Development review committee (DRC) means the committee responsible for reviewing land studies, drainage plans, vacations, concept plans, draft plats, pre-application proposals, plats, preliminary engineering design plans and any other items deemed necessary which are associated with development. Typically, the DRC is composed of city planner, city engineer, director of public works, and the city manager or their designee. The city manager and city council may adjust the composition of the DRC or overrule the DRC in all matters not in violation of law.

Development review committee (DRC) comment and plat application deadline means the point in time where the subdivider must provide corrected land studies, drainage plans, vacations, concept plans,

draft plats, pre-application proposals, subdivider's public improvement agreement and surety, preliminary engineering or other items which have been requested by the DRC, with all fees paid, in order for the subdivider to make a complete, correct formal plat application submittal for the next available public hearing.

Development review committee pre-application deadline means the deadline for a subdivider/applicant to submit a pre-application proposal for review and comment by the development review committee (DRC).

Drainage plan means a general plan for handling the storm water affecting property proposed for development. The drainage plan shall show how and where water will be received from adjacent higher areas; how and where it will be collected and handled within the property; and how and where it will be discharged to a recognized drainage way in a lower area. The plan shall deal with individual watershed areas as necessary; show the proposed phasing of development and attendant phasing of drainage improvements; describe any unusual water features anticipated; provide topographic, physical and geographical information; and form the basis for subsequent review of design plans submitted for property to be final platted.

Dwelling unit means any building or portion thereof, which is designed or used as living quarters for one or more families.

Easement means an area for restricted use on private property upon which a public entity or utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective systems on or under any of these easements. The public entity or utility shall at all times have the right of ingress and egress to and from and upon the said easements for the purpose of construction, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective systems without the necessity at any time of procuring the permission of anyone.

Escrow means a deposit of cash with the city in accordance with city policies.

Exaction requirement means a requirement imposed as a condition for approval of a plat, preliminary plat, building permit, planned development district or other development permit application to:

- (1) Dedicate an interest in land for a public infrastructure improvement;
- (2) Construct a public infrastructure improvement; or
- (3) Pay a fee in lieu of constructing a public infrastructure improvement.

Filing date means the point in time where the subdivider has provided corrected land studies, drainage plans, vacations, concept plans, draft plats, pre-application proposals, preliminary engineering or other items with all fees paid to the satisfaction of the DRC and in compliance with state law and this chapter, for consideration by the planning and zoning commission at their the next available public hearing. See development review committee (DRC) comment and plat application deadline.

Final plat (also record plat or file plat) means the one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor with the subdivision location referenced to a survey corner and all boundaries, corners, and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract, or parcel of land shall be recorded in the records of Denton County, Texas. An amended plat is also a final plat.

Floodplain (100 year) means any land area susceptible to a one percent annual-chance (or susceptible to a 100 year frequency storm) of being inundated by flood waters. This condition could result from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters.

Floodway means the stream channel plus that portion of the overbanks that must be kept free from buildings, structures, fill or any other encroachment in order to discharge the one percent annual-chance flood.

Floodway fringe means areas that fall within the 100-year floodplain, but are outside the floodway. Development will, by definition, cause no unacceptable increase in the 100-year frequency flood.

Homeowner's association. The HOA shall be organized as a non-profit corporation with automatic membership in the HOA when property is purchased. This shall be specified in the covenants which run with the land, and which bind all subsequent owners. Covenants for maintenance assessments shall also run with the land. Assessments shall also be handled in covenant form rather than as articles of incorporation since the latter may be easily amended. Included in the maintenance covenants shall be procedures for changing them at stated intervals since maintenance costs may change over time. Deeds shall also mention the rights and responsibilities of property owners to the HOA. The HOA shall also be responsible for liability insurance, local taxes, and the maintenance of all commonly held facilities through the use of a pro-rata share formula for all property owners.

Improved drainage channel means a drainage channel constructed to design standards, with constant cross sections, used to convey the 100-year design frequency storm plus one foot of free board, within its banks.

- (1) *Unlined channel.* This channel has a trapezoidal shape with a flat bottom and uniform side slopes. The side slopes are smooth, free of rocks and are covered with approved turf.
- (2) *Lined channel.* This channel has a trapezoidal shape with a flat bottom and uniform. The entire surface is covered with reinforced concrete.

Land planner means persons other than surveyors or engineers who also possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial, and other related developments; such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the field of land planning, and may be a member of the American Institute of Certified Planners.

Land study means a general plan for an area proposed for partial or complete subdivision. The land study shall show the proposed locations of land uses, streets, phasing of development, important physical features, and applicable information for the entire area to be subdivided.

Lot or lot of record means a divided or undivided tract or parcel of land having frontage on a public street and which is or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

Master plan means the comprehensive land use and thoroughfare plan of the city and adjoining areas as adopted by the city council and the city planning and zoning commission, including all its revisions. This plan indicates the general location recommended for various land uses, transportation routes, public and private buildings, streets, parks, water, sewer, and other public and private developments and improvements.

Minor plat means a plat that proposes the creation of four or fewer lots fronting on an existing street, which does not require the creation of any new street or the extension of any municipal (or public) facilities.

Natural channel means an earthen drainage channel in its natural state, generally with irregular cross sections. This channel has its original meanders and does not have consistent side slopes. Such channels may be modified by cutting or filling in accordance with plans approved by the city. Natural channels may be approved with or without channel improvements provided that:

- (1) No effective erosion is anticipated or expected;
- (2) The smallest cross section can convey the flood waters of a 100-year frequency storm, plus one foot of free board, within its banks;
- (3) Sufficient floodplain and floodway easements are dedicated to provide protection to adjacent properties or facilities; and
- (4) Arrangements have been made for perpetual maintenance by an approved maintenance entity.

Non-local streets means streets classified as commercial collectors, minor arterials and primary arterials.

On-site facilities or improvements means those existing or proposed facilities or improvements constructed within the property boundaries of the plat. On-site shall also mean those existing or proposed facilities required to be constructed or improved immediately adjacent to the property which are required to serve the development. These include streets, water lines, sewer lines, storm drainage, curb and gutter, and any other construction or reconstruction to serve the property.

Off-site facilities or improvements means those facilities or improvements required for service to the site but not located within the boundaries of the plat.

Park plan means a park site plan drawn at an appropriate scale that indicates the required park facilities and the relationship of those facilities to the proposed park development.

Perimeter street means any existing or planned street which abuts the subdivision or addition to be platted.

Person means any individual, association, firm, corporation, governmental agency, or political subdivision.

Planning and zoning commission means the planning and zoning commission of the city.

Plat refers generally to a plat application which has been formally filed after addressing all of DRC comments, providing all requisite information, material and studies and paying all required fees. This reference shall include inferences to a preliminary plat, final plat, amending plat, minor plat, replat or development plat.

Pre-application proposal means draft applications submitted for development review committee (DRC) for review, including information required by this chapter for each land study, a preliminary plat, replat, amended plat, development plat or a final plat proposal, along with an original, signed application.

Preliminary plat means the graphic expression of the proposed overall plan for subdividing, improving, and developing a tract shown by superimposing a scale drawing of the proposed land division on a topographic map and showing in plan existing and proposed drainage features and facilities, street layout and direction of curb flow, and other pertinent features with notations sufficient to substantially identify the general scope and detail of proposed development.

Public facilities system means, with respect to water, wastewater, roadway, drainage or parks, the facilities owned or operated by or on behalf of the city to provide services to the public, including existing and new developments and subdivisions.

Public improvements agreement means a contract between the subdivider and the city by which the subdivider promises to construct one or more of the following public facilities within a public right-of-way or easement, within a specified time period following final plat approval (i.e., water, sanitary sewer, street, storm drainage, street lights and street name signs).

Public infrastructure improvement means a water, wastewater, roadway, drainage or park facility that is a part of one or more of the city's public facilities systems.

Public park land means land dedicated to the city specifically for development and use as a public recreational area.

Replating or replat means the resubdivision of any part or all of any block or blocks of a previously platted subdivision, additional lot or tract.

Right-of-way means a parcel of land, situated between facing property lines, occupied or intended to be occupied by a street, parkways, medians or alley. Where appropriate right-of-way may include other facilities and utilities, such as sidewalks, railroad crossings, electrical, communication, oil or gas, water or sanitary or storm drainage facilities, or for any other special use. 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 not included within the dimensions or areas of such lots or parcels.

Street means a public right-of-way, however designated, which provides vehicular access to adjacent land.

- (1) *Principal arterial streets* should carry the major portion of trips entering and leaving the urban area, as well as the majority of through movements desiring to bypass the city. The thoroughfare system should carry a high proportion of the total urban area travel on a minimum of mileage.
- (2) *Minor arterial streets* include all thoroughfares not classified as principal and place more emphasis on land access than the higher classification, and offer a lower level of traffic mobility. The secondary thoroughfare system should interconnect with and augment the primary thoroughfare system.
- (3) *Residential collector streets* provide for both land access to adjacent property and local traffic movements within residential neighborhoods. These streets collect traffic from residential streets in the neighborhood and channels it into higher classification streets.
- (4) *Industrial streets* provide direct access to industrial areas or parks. Total vehicular traffic may be low, but the percentage of truck traffic is high.
- (5) *Commercial streets* provide direct access to commercial areas or serve traffic in a central business district. These streets are frequently congested and speeds are slow due to higher traffic volumes but with a low percentage of truck traffic.
- (6) *Residential streets* carry traffic directly to and from collector streets and provide direct access to low density and single family property.

Street width means the portion of the right-of-way constructed and designated for vehicular traffic. The shortest distance between the opposite edges of a paved surface or where curbs exist, the distance measured from back of curb to back of curb.

Subdivider means any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner of land sought to be subdivided.

Subdivision (also *addition*) means a division or redivision of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of such limits, for the purpose of transfer of ownership, layout of any subdivision of any tract of land or any addition, or for the layout out of building lots, or streets, alleys or parts of other portions for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Substandard street means an existing street that does not currently meet the minimum requirements as to width, appurtenances or pavement section for a roadway of its anticipated function or designated classification. A standard street is a roadway that is so constructed that it meets or exceeds all requirements of its designated classification.

Surveyor means a licensed state land surveyor or a registered public land surveyor, as authorized by the state statutes to practice the profession of surveying.

Utility means water, sanitary sewer, electric, gas, telephone, cable TV or any other such item of service either for public or private use.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Secs. 42-18—42-44. - Reserved.

ARTICLE II. - PROCEDURES

Sec. 42-45. - Pre-application.

The subdivider should avail him/herself of the advice and assistance of the city officials and shall be required to consult with the development review committee through the development coordinator or other designated administrative officers before presenting a land study, a preliminary plat, replat, amended plat, development plat, final plat or any other formal application for approval. The purpose of pre-application proposal is to save time, money, and to avoid unnecessary delays. Pre-application proposals for development review committee review shall include the information required by this chapter for each land study, preliminary plat, replat, amended plat, development plat or final plat proposal, along with an original, signed application. The information shall be submitted prior to the development review committee pre-application deadline, which will be established by the development coordinator. The calendar outlining the dates for the development review committee meeting, development review committee comment and plat application deadline and available public hearing dates for planning and zoning commission and city council meetings will be available in planning and development department. The development review committee shall comment on the pre-application proposal, and forward such comments to the subdivider. The subdivider shall then be required to address the DRC comments by the development review committee comment and plat application deadline. Once the DRC comments have been timely addressed by the subdivider, to the satisfaction of the DRC and the applicable plat application fee has been remitted, the pre-application proposal may be filed and submitted as a plat application for consideration by the planning and zoning commission at its next available public hearing. Pre-application proposals that fail to address the development review committee comments, fail to comply with the requirements of this chapter, or that are submitted after the DRC comment and plat application deadline shall not be considered filed with the city and shall be returned to the subdivider as incomplete.

- (a) *Purpose.* The purpose of the development review committee process is to assess the development proposal required by this chapter to:
 - (1) Provide the city with information needed for proper enforcement of the provisions of this chapter, including information not evidenced on the plat; and
 - (2) To facilitate cooperation between city staff and the subdivider so that the proposed plat application ultimately submitted to the city acceptable and in proper form.
- (b) *Pre-application proposal not a plat.* The pre-application proposal required by this chapter is not a plat. The submission of a pre-application proposal does not constitute and shall not be construed as the submission of or filing of a plat within the meaning of this chapter or within the meaning of the laws of the State of Texas or of the United States, including, without limitation, Chapter 212 of the Texas Local Government Code.
- (c) *Fee required.* A fee shall be collected for pre-application conferences. The fee shall be set via resolution by city council from time to time. A fee shall be collected for the formal application prior to the commencement of review in earnest. The fee shall be set via resolution by city council from time to time.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-46. - Plat submission.

Once the pre-application proposal has been approved by the development review committee, the subdivider may prepare and submit for planning and zoning commission or city staff consideration, whichever is applicable, via the planning and development department, a plat that complies with the requirements of this chapter. If the subdivider intends to develop the subdivision shown on the pre-application proposal in phases or sections, the plat shall include only those sections or phases of the subdivision that the subdivider intends for immediate development. However, one copy of the concept plan showing all phases of the development shall be provided to city staff for reference. The subdivider shall submit to the planning and zoning commission and city council the plat and any supporting documentation required by the development review committee (such as the associated application, variance(s) requested, study results, covenants and restrictions information, etc.) in a form approved by the development coordinator and/or the city attorney. The application and accompanying copies of the

plat must be submitted to the planning and development department prior to the DRC comment and plat application deadline. If the application, plat or any of the required materials are not submitted prior to the development review committee comment and plat application deadline, the application may be withheld from the public hearing agenda as outlined in section 42-15, or the plat may be recommended for disapproval by the planning and zoning commission, and/or recommended for denial by city council. No lots within a subdivision may be sold until a final plat has been considered and acted on by the planning and zoning commission, and approved by the city council.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-47. - Procedure for approval of a preliminary plat and submission requirements.

- (a) The preliminary plat shall be submitted to the city with the filing fee as provided by separate resolution 30 days prior to the planning and zoning commission meeting at which it is to be considered. The preliminary plat shall be in accordance with the master plan including all adopted water, sewer, future land uses, and thoroughfare plans. Accordance will be determined at the discretion of the city manager, a land planner, or other qualified individual delegated by the city manager. The preliminary plat shall be prepared by an engineer, land planner, surveyor, or other qualified individual. It shall be a requirement that the preliminary plat show the entire parent survey or tract of land to be subdivided, even if the subdivider proposes to develop the parent tract or land in survey in future phases. Incrementally carving out select lots from the original survey or tract of land without showing the entire survey and tract and availing known intent and purpose for the remainder is prohibited.
 - (1) The preliminary plat shall be accompanied by a preliminary water plan, a preliminary sewer plan, a preliminary street plan and a preliminary drainage plan for concept review of engineering problems for review and comment.
- (b) Printed copies of the preliminary plat and plans for the proposed subdivision drawn on sheets at a size of 24 inches by 36 inches for plat and 22 inches by 34 inches for plans and drawn to scale of 100 feet or 50 feet to the inch (one inch equals 100 feet or one inch equals 50 feet) shall be submitted. The city manager or their designee shall determine the amount and nature of copies required for submittal to planning and zoning. Generally, a minimum of 17 folded copies and one portable document format (pdf) electronic file copy will be submitted. All preliminary plats and plans shall be submitted in a legible black line format on a good grade paper. A different number of copies and any reductions may be specified by the development coordinator. In cases of large developments which would exceed the dimensions of the sheet of 100 foot scale, preliminary plats may be 200 feet to the inch (one inch equals 200 feet) or a scale approved by the development coordinator. Preliminary plats which do not include the required data, number of copies and information will be considered incomplete and not accepted for submission by the city and shall not be scheduled until the proper information is provided to the development coordinator. Additional copies of the preliminary plat and plans may be required if revisions or corrections are necessary. A preliminary plat 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) Following review of the preliminary plat and other material submitted for conformity thereof to these regulations, and discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be installed, the planning and zoning commission shall, within a 30-day period after the submittal of a complete application for such preliminary plat to the city, act thereon as submitted, or modified. If approved, the planning and zoning commission shall recommend its approval or state the conditions of such approval, if any, or if disapproved, its disapproval and reasons therefore.
- (d) After the planning and zoning commission has made its recommendations, the preliminary plat shall be scheduled for the next possible city council agenda. The city council shall take action on the preliminary plat within 30 days of the planning and zoning commission action.

- (e) Proposed preliminary plats or subdivisions which do not conform to the policies and regulations shall be denied, or, in lieu of denial, conditionally denied based on conformance with conditions. Except as provided herein, approval of a preliminary plat by the city council constitutes authorization for the property owner, upon fulfillment of all requirements of approval or conditions which have been met as a part of a conditional denial, to submit an application for final plat approval. If required, a public improvements agreement or any other necessary agreement must be approved prior to approval of the final plat.
- (f) Standard of approval. No preliminary plat shall be approved by the planning and zoning commission or by the city council unless the following standards have been met:
 - (1) The preliminary water plan, preliminary sewer plan, preliminary street plan and the preliminary drainage plan have been submitted to the development coordinator and approved by the development review committee at the discretion of the development coordinator.
 - (2) The preliminary plat conforms to applicable zoning and other regulations.
 - (3) The preliminary plat meets all other requirements of these regulations.
- (g) For subdivisions less than five acres which contain four lots or less, the requirement for a preliminary plat may be waived by the development coordinator or the designated administrative official if no public improvements are being proposed and if the development has access to a public street.
- (h) No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat by the planning and zoning commission and city council or designated city official(s) and a preconstruction meeting has been held and agreed to by the city and subdivider. The applicant shall also provide copies of letters from applicable local utility companies stating that the utility company has reviewed the plat and stated any requirements. This requirement may be deferred until the final plat is submitted if approved by the development coordinator or the designated administrative official. Any excavation prior to approval of the final plat shall be at the subdivider's risk.
- (i) The preliminary plat for a subdivision shall, at a minimum, show the following information:
 - (1) A legible vicinity or location map that delineates the location of the proposed preliminary plat in the city;
 - (2) Boundary lines, abstract lines, survey lines, corporate boundaries, existing or proposed highways and streets, bearings, and distances sufficient to locate the exact area proposed for the subdivision;
 - (3) The name and location of all adjoining subdivisions or property owners 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 street and alleys and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines and owners of record. The subdivision name shall not duplicate any existing subdivision name. If the property is part of an existing subdivision, the existing subdivision name shall be used. If no subdivision name has been chosen, the name of the property as it is commonly or locally known shall be indicated;
 - (4) The location and width of all streets and alleys, rights-of-way, sidewalks and easements existing or proposed within the subdivision limits. Proposed street names are required to be shown on all new streets. Approved street names are required at the time the final plat is approved;
 - (5) The location of all existing property lines, existing lot and block numbers and date recorded, buildings, existing sewer or water mains, gas mains or other underground structures, easements of record or other existing features within the area proposed for subdivision;
 - (6) Proposed arrangement and square footage of lots (including lot and block numbers county recording information and building lines) and proposed use of same;

- (7) The title under which the proposed subdivision is to be recorded, the name and address of the owner with the name and address of the planner, engineer, or registered public surveyor preparing the drawing. The subdivision name shall not be duplicated, but phasing identification is allowed. The city shall determine if the proposed subdivision identification will be in conflict with existing plats;
- (8) Sites, if any, to be reserved or dedicated for parks, or other public use, and any private restrictions;
- (9) Scale, north arrow, date and other pertinent data oriented to the top or left side of the sheet; contours with intervals of two feet or less shown for the area with all elevations on the contour map referenced to the latest U.S.C. and G.S. data. Contours are required for subdivisions of three lots or more, unless otherwise specified by the development coordinator;
- (10) Areas contributing drainage to the proposed subdivision shall be shown on the preliminary plat or the drainage plans, as necessary. This includes: Any watercourses, waterbodies, floodplains, floodways, flood hazard areas, significant tree masses, slopes, or other natural features within the area to be subdivided, or any similar natural feature located outside the area but which contributes to the assessment of the drainage plan submitted by the applicant. Locations proposed for drainage discharge from the site shall be shown by directional arrows;
- (11) All physical features of the property to be subdivided including location and size of all water courses, 100-year floodplain according to Federal Emergency Management Agency (FEMA) information, ravines, channels, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions, the outline of major wooded areas or the location of major or important individual trees, and other features pertinent to subdivision. Properties impacted by areas of special flood hazard shall comply with the requirements of the city's flood damage prevention regulations;
- (12) The proposed preliminary designs of all water, sewer, street including street lighting and drainage infrastructure (including sizes) to be constructed in the subdivision shall be shown on separate maps using the preliminary plat as a base map. These preliminary plans include as a minimum the following:
 - a. *Preliminary water plan.* Water mains, service connections and any special structures such as wells, elevated storage tanks and pump stations;
 - b. *Preliminary sanitary sewer plan.* Sanitary sewer mains, service connections and any special structures or facilities, such as lift stations, septic systems, lagoons, oxidation ponds, and package plants;
 - c. *Preliminary street plan.* Street design and layout with proposed ROW and street paving widths, a street light plan, and any special design requirements or needs as requested by DRC or applicant, such as detailing: Boulevard entrances, off-site improvements, ROW expansion or roadway dedication needs, etc.; and
 - d. *Preliminary drainage plan.* Stormwater drainage mains, channels, culverts, bridges, retention or detention ponds, and other major drainage facilities;
- (13) Where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development. The dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision shall be shown along with the proposed roadway improvements for each section. 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 such phases as the council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;
- (14) For land lying in the corporate limits of the city, all zoning districts and proposed changes in zoning contemplated at the time of filing the pre-application proposal. This shall also include

setback information relating to the existing and/or proposed zoning district as required. The subdivider shall also show the proposed land use for all lots, which shall comport with the city comprehensive plan;

- (15) The location of all existing or abandoned oil or gas wells, oil or gas pipelines and other appurtenances associated with the extraction, storage, production and distribution of natural gas or petroleum products, and all related easements on the site or on immediately adjacent property;
- (16) Any proposed supplemental transportation systems, showing the layout and dimensions of walkways, sidewalks, bike trails, and other related improvements;
- (17) The location and dimension of any existing structures, fences, paved areas, cemeteries, or other existing features within the proposed subdivision;
- (18) Typical cross-section of proposed street improvements;
- (19) The approximate dimension, location, and area of all parcels of land to be set aside for public or private parks, playgrounds or other common use of property, including area set aside for common use by the home owners association in the proposed subdivision. Such park dedication shall be shown on the plat (see section 42-126 (Park land dedication));
- (20) The following statistical data in the title block:
 - a. The total number of units per acre;
 - b. The total number of lots per phase or for the entire development; and
 - c. The number of dwelling units, the acreage, and the gross residential density by housing type;
- (21) A declaration confirmed by engineering analysis (if required by the city engineer), and prepared by an engineer professionally licensed in the State of Texas, stating that the existing utility main(s) or roadway network serving a proposed subdivision is adequate. The need for additional information shall be determined as follows: Upon receipt of a pre-application proposal, the city engineer shall review the proposed development. The city engineer shall determine whether further, detailed studies shall be required to assess the development's impact on the existing water, wastewater or roadway system. If the city engineer determines that further study is necessary to confirm the adequacy of the existing utility mains or roadway network to serve the new development, the pre-application proposal shall be marked, identifying the point from which the subdivider's engineer shall be required to confirm by engineering analysis the adequacy of the existing utility or roadway system to serve the proposed development. Such analysis shall be provided to the city engineer prior to the development review committee (DRC) comment and plat application deadline in order to be placed on the agenda for the required public hearings. The city engineer shall forward the review of the engineering report or study to the planning and zoning commission and council for their consideration;
- (22) The following notice shall be placed near the lower right-hand corner of the page of each preliminary plat:

"Preliminary Plat"

"Approved by the Planning and Zoning Commission" Date _____

Chair, Planning and Zoning Commission

Attest, City Secretary

"Approved by the City Council" Date _____

Mayor, City of Justin

Attest, City Secretary

- (j) Extension and reinstatement procedure.
- (1) An approved preliminary plat shall be valid for a period not to exceed six months after the date of city council approval. A one-time, six-month extension may be granted by the development review committee, provided that a written request for an extension signed and filed by the subdivider prior to the expiration of the preliminary plat. If a preliminary plat is not acted upon within the time period set forth herein, the subdivider will be required to file a new pre-application proposal for DRC review and pay all applicable fees.
 - (2) In determining whether to grant a request for extension, the development review committee shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision regulations shall apply to the plat or study. The committee shall extend or reinstate the plat or study, or deny the request, in which case the property owner must submit a new application for approval and pay all applicable fees.
- (k) Notice of and a public hearing, and the approval of other lot owners (other than any lot owners that are required to join in the application) are not required for the approval of a preliminary plat in accordance with this section.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-48. - Procedure for approval of final plat.

- (a) The final plat shall be in accordance with the preliminary plat, as approved, and incorporate all conditions, changes, directions and additions as approved by the city council. The final plat shall not be submitted prior to approval of the preliminary plat and shall contain all the required information required herein for a valid final plat submittal. A final plat shall not be accepted by the city if a preliminary plat has expired and become void. At the time the subdivider files the final plat with the development coordinator, the subdivider shall also file a certificate showing that all taxes have been paid on the tract to be subdivided and that no delinquent taxes exist against the property in accordance with section 42-14.
- (b) The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and then develop, provided, however, that such portion conforms to all the requirements of these regulations. The final plat shall be formatted and include information in accordance with section 42-51.
- (c) The typical number of 20 paper copies and one digital (pdf) copy of the proposed final plat shall be submitted 30 calendar days before the meeting at which they shall be considered, accompanied by a filing fee as prescribed by the city council by resolution. The city manager or their designee shall determine the amount and nature of copies required for submittal to planning and zoning. The development review committee shall check the plat to ascertain its compliance with these regulations and report their findings to the applicant. If revisions are necessary, the applicant, subdivider, or their engineers shall submit additional corrected copies of the properly completed final plat to the administrative official for final action no later than 14 days prior to the planning and zoning commission meeting. Failure to submit corrected copies shall be reason to determine the submittal as incomplete and not schedule the plat on the planning and zoning commission's agenda.
- (d) The planning and zoning commission shall recommend approval, conditional denial or denial of the final plat within 30 days of the filing date. The city council shall take action within 30 days of the planning and zoning commission action. A certificate of approval of the city council attested by the

mayor or mayor pro tem and city secretary, as provided herein, shall be attached to the plat when such final plat has been approved. The final plat shall not be released for filing with Denton County until acceptance of the completed project as described in article V. Notice of and a public hearing and the approval of other lot owners (other than any lot owners that are required to join in the application) are not required for the approval of a final plat (not applicable replat) in accordance with this section.

- (e) The subdivider and/or applicant shall return copies of the final plat, as approved, with any other required documents and necessary fees attached thereto to the development coordinator within 30 days in accordance with requirements established by the city. All easements shall be included as required by utility companies or the city prior to filing and a copy of letters from each applicable utility company shall be submitted to the development coordinator stating that the plat contains the proper easements or a statement of their approval of the abandonment or vacation of easements. Mylars, reductions, tax certificate and copies as may be required by the Denton County clerk, in addition to mylar copies required by the city, shall be returned to the city secretary with the required fees. If the required copies are not returned to the city within the specified time, the city approval of the final plat shall be null and void unless an extension is granted by the city council.
- (f) The final plat and replats shall be prepared by a registered public land surveyor or state licensed land surveyor. Construction plans shall be prepared by a professional engineer licensed in the State of Texas as required by state law governing such professions in accordance with this chapter. Plans submitted for review by the city shall be dated and bear the responsible engineer's name, license or registration number, and the designation of "professional engineer," or "P.E.", and an appropriate stamp or statement near, the engineer's identification, stating that the documents are for preliminary review and are not intended for construction. Construction plans acceptable to the city shall bear the seal and signature of the engineer and the date signed on all sheets of the plans.
- (g) Before approval of any final plat by the city council and planning and zoning commission, the subdivider shall have executed a public improvements agreement and provided a security deposit in accordance with article V of these regulations.
- (h) After approval of the plat, plans, and specifications by the city, the subdivider shall cause a contractor to install the facilities in accordance with the approved plans and standard specifications of the city and at the subdivider's expense (also see article V). The subdivider shall employ engineers, surveyors, and other professionals as necessary to design, stake and supervise the construction of such improvements and shall cause his contractor to construct the said improvements in accordance with these regulations. The public works department shall inspect the installation of the improvements.
- (i) The approved, final construction plans shall be valid for a period of one year after approval by the city manager or their designee in consultation with the city engineer. The city manager may grant a one-time, one-year extension, after which the plans must be resubmitted for approval if no construction has occurred.
- (j) When all of the improvements have been completed and are found to be installed in accordance with the approved final construction plans and specifications and upon receipt by the city of a maintenance bond (100 percent for two years), the subdivider's engineer shall submit to the city one complete paper set of full size plan drawings showing all changes made in the plans during construction and containing on each sheet an "As Built" stamp bearing the signature of the engineer and date. After review and approval of the preceding set of "as built" plans, one full size mylar set of "as built" plans, one portable document format (pdf) set of "as- built" plans and a letter stating the contractor's compliance with these regulations shall be submitted by the subdivider's engineer. After receipt of the required plans and letter, the director of public works shall receive and accept for the city the title, use and maintenance of the improvements in accordance with section 42-160.
- (k) Timing of public improvements.
 - (1) The planning and zoning commission and city council will generally require that all public improvements be installed and accepted by the city prior to the filing of the final plat by the city secretary. 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 offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. Any required public improvement(s) approved for deferred construction shall be provided for as required in the public improvements agreement prior to the approval of the final plat.
- (3) If the planning and zoning commission and city council does not require that all public improvements be installed and accepted by the city prior to signing of the final plat, it shall require that the applicant execute a public improvements agreement and provide security for the agreement as provided for in article V.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-49. - Amending plat.

- (a) Prerequisite for amending plat. The subdivider requesting an amending plat shall prepare a pre-application proposal and comply with all application procedures set forth in article II of this chapter.
- (b) Upon compliance with the pre-application procedures set forth herein, the planning and zoning commission may recommend for approval, conditional denial or denial, and the city council may approve, conditionally deny or deny and, if approved or when specific conditions have been met as a part of the conditional denial, issue an amending plat, which may be recorded and then is controlling over the preceding plat without vacation of that plat, only if the amending plat is signed by the applicant (property owner or City of Justin) and the only purpose(s) of the amending plat is/are one or more of the following:
 - (1) To correct an error in a course or distance shown on the preceding plat;
 - (2) To add a course or distance that was omitted on the preceding plat;
 - (3) To correct an error in a real property description shown on the preceding plat;
 - (4) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - (5) To 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) To correct any other type of scrivener or clerical error or omission previously approved, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (7) To 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 other owners in the plat;
 - (8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (9) To 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;

- (10) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - a. The changes do not affect applicable zoning and other regulations of the city;
 - b. The changes do not attempt to amend or remove any covenants or restrictions; and
 - c. The area covered by the changes is located in an area that the planning and zoning commission and city council has approved, after a public hearing, as a residential improvement area; or
- (11) To replat one or more lots fronting on an existing street 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;
 - c. The amendment does not increase the number of lots; and
 - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (c) Approval authority for amending plat. The city manager or their designee in consultation with the city engineer may approve an amending plat that complies with this section and does not require a variance. If the subdivider does not make the necessary corrections, provide the city all the necessary documentation, or does not pay the required fees by the scheduled development review committee (DRC) comment and plat application deadline, the subdivider forfeits his/her privilege for the consideration for staff approval and such pre-application proposal for an amending plat request for staff consideration shall be null and void. It will be required that the subdivider shall pay another pre-application fee in order to present the revised plat application as a replat to the planning and zoning commission for recommendation and city council for approval/disapproval at the next available application deadline for DRC review. If an amending plat is not approved by the development coordinator and director of public works within 21 calendar days after the development review committee (DRC) comment and plat application deadline or if the amending plat application requires a variance to this chapter, the amending plat (and variance request, if any) application shall be considered null and void and a replat application shall be scheduled for consideration at the next available planning and zoning commission hearing. Additionally, the city manager or the subdivider may, at their discretion, elect to present the amending plat to the planning and zoning commission for recommendation and city council for approval/disapproval; provided, however, that the amending plat must be placed on the planning and zoning commission agenda before the development review committee (DRC) comment and plat application deadline. If the subdivider does not agree to conditions of approval imposed by the development review committee or the development coordinator, the subdivider shall submit written notice of such to the development coordinator before the development review committee (DRC) comment and plat application deadline, whereupon the amending plat will be scheduled for consideration at the next available planning and zoning commission meeting. Action will be taken on the amending plat in the same manner as for a plat, as set forth in section 42-53 (Replating).
- (d) Notice, public hearing and approval of other lot owners not required. Notice of and a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat in accordance with this section.
- (e) Filing. Upon the approval of an amending plat in accordance with this section the amended plat may be filed with the Denton County clerk for recording.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-50. - Minor plat.

- (a) Prerequisite for minor plat. A minor plat is only for creating a subdivision containing four or fewer lots fronting on an existing street, and not requiring the creation of any new street or the extension of municipal facilities. The subdivider requesting a minor plat shall prepare a pre-application proposal, pursuant to section 42-5. The pre-application proposal and any variance request shall be submitted prior to the development review committee pre-application deadline. Once DRC comments have been addressed by the subdivider, the plat application may be filed and submitted as a minor plat application for consideration and approval.
- (b) Approval authority for minor plat. The city manager or their designee may approve a minor plat that complies with this section and that does not require a variance to this chapter. If the subdivider does not make the necessary corrections, provide the city all the necessary documentation, or does not pay the required fees by the scheduled development review committee (DRC) comment and plat application deadline, the subdivider forfeits his/her privilege for the consideration for city manager approval and such pre-application proposal for a minor plat request for staff consideration shall be null and void. It will be required that the subdivider shall pay another pre-application fee in order to present the revised plat application as a final plat to the planning and zoning commission for recommendation and city council for approval/disapproval at the next available application deadline for DRC review. If a minor plat is not approved by the city manager 21 calendar days after the development review committee (DRC) comment and plat application deadline or if the minor plat requires a variance, the minor plat (and variance request, if any) shall be scheduled for consideration at the next available planning and zoning commission meeting. Additionally, the city manager or the subdivider may, for any reason, elect to present the minor plat to the planning and zoning commission for recommendation and city council for final disposition. If the subdivider does not agree to conditions of approval imposed by the development review committee or the city manager, the subdivider shall submit written notice of such to the development coordinator before the development review committee (DRC) comment and plat application deadline, whereupon the minor plat will be scheduled for consideration at the next available planning and zoning commission meeting. Action will be taken on the minor plat in the same manner as for a plat, as set forth in section 42-51 (Final plats (Information and format requirements)).
- (c) Notice, public hearing and approval of other lot owners not required. Notice of and a public hearing, and the approval of other lot owners (other than any lot owners that are required to join in the application) are not required for the approval and issuance of a minor plat in accordance with this section.
- (d) The city manager, planning and zoning commission and the city council may approve, conditionally deny or deny, and, if approved or when specific conditions have been met as a part of the conditional denial may be recorded only if it is signed by the property owner. Upon the approval of a minor plat in accordance with this section by the city council or by the city manager, the minor plat may be filed with the Denton County clerk for recording.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-51. - Final plats (information and format requirements).

- (a) All final plats shall be submitted on sheets no larger than 24 inches by 36 inches and to a scale of 100 feet to the inch (one inch equals 100 feet) or 50 feet to the inch (one inch equals 50 feet). Where more than one sheet is required to encompass the subdivision, an index sheet of the same size with a larger scale shall be filed showing the entire subdivision together with the complete dedication, attests, dates, titles and seals, on one sheet followed by the sheets containing the final plat sheets at the specified scale.
- (b) The exterior boundary of the subdivision shall be indicated by a distinct bold solid line and corner markers by individual symbols.

- (c) The length and bearing of all straight lines, radii, arc lengths, tangent length and central angles of all curves shall be indicated along the lines of each lot. The curve data pertaining to block or lot boundary may be placed in a curve table. Building lines shall be shown and any private deed restrictions shall be submitted with the plat.
- (d) The names of all adjoining subdivisions, the dimensions of all abutting lots, lot and block numbers and accurate reference ties to courses and distances of at least one recognized land corner shall be shown. A location map drawn to scale shall also be shown. X and Y coordinates shall be provided for all lot corners and right-of-way information. A listing of the lots and their collating area in square feet shall be provided either on the plat or separately.
- (e) The names and accurate location of all adjacent streets. A letter from Denton County approving street names is required prior to filing the final plat with the city on property located within the city's extra territorial jurisdiction.
- (f) The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision shall be shown. It shall be the applicant's responsibility to coordinate with appropriate utility companies for placement of utility easements.
- (g) The description and location of all survey monuments placed in the addition or subdivision shall be shown (see section 42-117 for specifications).
- (h) The final plat shall contain a title block in the lower right corner of the page. The words "Final Plat", the name of the addition or subdivision, the name of the owners, their address and telephone number, and the address and legal description of the project shall be shown in the title block. The final plat shall provide the name of the engineer/surveyor, north point, date of preparation and date of revisions. The graphic scale shall be not less than one inch equals 100 feet. Located near the lower right hand corner, provide a place for the Denton County recording information acceptable to Denton County. The plat shall be signed and sealed.
- (i) Floodplain restrictions.
 - (1) If a floodplain easement is required or proposed, the following full statement of restriction shall be placed in the dedication instrument on the subdivision plat.

"FLOODPLAIN RESTRICTION

No construction shall be allowed within the floodplain easement, without the prior written approval of the City. In order to secure approval, detailed engineering plans and/or studies for the improvements, satisfactory to the City, shall be prepared and submitted by the party or parties wishing to construct within the floodplain. Where construction is permitted, all finished floor elevations shall be a minimum of two (2) feet above the 100 year design frequency storms elevation. Any construction approved within the floodplain shall not unacceptably increase the 100-year design frequency storm elevation."

- (2) The following statement shall be required when an unlined improved drainage channel, in a drainage easement, or when a floodplain easement is proposed.

"FLOODPLAIN/DRAINAGEWAY MAINTENANCE

The existing creeks, streams, or ponds (drainage ways) traversing along or across portions of this addition, will remain unobstructed at all times and will be maintained by the individual lot owners, homeowner's association or approved maintenance entity whose lots are traversed by or adjacent to the drainage ways. The City of Justin will not be responsible for the maintenance, erosion control, and/or operation of said drainage ways. Property owners shall keep the adjacent drainage ways traversing their property clean and free of debris, silt or other substances which would result in unsanitary conditions, and the City shall have the right of entry for the purpose of inspecting the maintenance work performed by the property owners. The drainage ways are occasionally subject to storm water overflow and/or bank erosion that cannot be defined. The City of Justin shall not be liable for any damages resulting from the occurrence

of these phenomena, nor the failure of any structure(s) within the drainage ways. The drainage way crossing each lot is contained within the floodplain easement lines as shown on the plat."

- (3) If a floodway easement is required or proposed, the following full statement of restriction shall be placed in the dedication instrument of the subdivision plat.

"FLOODWAY RESTRICTION

No encroachment, including fill, new construction or improvements shall be allowed within the floodway easement."

- (j) Minimum finished floor elevations of building foundations shall be shown on lots adjacent to a floodway, floodplain or other areas susceptible to flooding.
- (k) An owner's certificate shall be attached to and be a part of the final subdivision plat and shall contain a minimum of the following information:
- (1) A statement that the subdivided area is legally owned by the applicant.
 - (2) An accurate legal metes and bounds description by the line bearing, line distance and necessary curve data, of all lines bounding the property with descriptions correlated to a permanent survey monument.
 - (3) A statement signed by the owner and acknowledged before a notary public as to the authenticity of the signatures, saying that the owner adopts the plat as shown, described and named and they do dedicate to the public forever the streets and alleys shown on the plat. The owner further reserves any easement areas shown for mutual use of all public utilities desiring to use the same. Any public utility shall have the right to remove and keep removed all or any part of any vegetative growth for construction or maintenance, or efficiency of its respective system in these easements and all or any part of, any growth or construction which in any way hinders or interferes with the right of ingress and egress to these easements for any necessary use without asking anyone's permission.
 - (4) A registered public land surveyor's certificate, with a place for signatures.
 - (5) A place for plat approval signature of the mayor or mayor pro-tem of the city council and a place for the secretary to attest such signature and the approval dates by planning and zoning commission and city council.
 - (6) Examples (6)a. and (6)b. show the information required on the final plat which meet the above requirements. Other examples for applicable purposes are set forth by (6)c., d. and e.
- a. Owner's certificate (example).

STATE OF TEXAS §

COUNTY OF DENTON §

WHEREAS, (John Doe and Jane Doe) are the Owners of a tract of land, situated in the XYZ Survey, Abstract No. 999, Denton County, Texas and being out of a _____ acre tract conveyed to them by Joe Smith and Tom Smith and a _____ tract conveyed to them by John Smith and being more particularly described as follows:

(Enter accurate metes and bounds property description here)

NOW, THEREFORE, KNOWN ALL MEN BY THESE PRESENTS:

That _____ acting herein by and through its duly authorized officers, does hereby adopt this plat designating the hereinabove described property as _____, an addition to the City of Justin, Texas, and does hereby dedicate, in fee simple, to the public use forever, the streets and alleys shown thereon. The streets and alleys are dedicated for street purposes. The Easements

and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the Easements as shown, except that landscape improvements may be placed in Landscape Easements, if approved by the City of Justin. 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 Justin's use thereof. The City of Justin 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 Justin 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 Justin, Texas.

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

BY:

Authorized Signature or Owner

Printed Name and Title

STATE OF TEXAS §

COUNTY OF DENTON §

Before me, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared John Doe and Jane Doe, Owners, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they each executed the same for the purpose and considerations therein expressed.

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

Notary Public in and for the
State of Texas

b. Surveyor's certificate (example).

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 Regulations of the City of Justin, Texas.

Registered Public Surveyor SEAL

STATE OF TEXAS §

COUNTY OF DENTON §

Before me, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared _____ Surveyor, known to me to be the person whose name is subscribed to this plat.

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

Seal Notary Public in and for the
State of Texas

(SIGNATURES REQUIRED FOR COUNCIL APPROVAL)

Approved by the Planning and Zoning Commission Date _____

Chair, Planning and Zoning Commission

Attest, City Secretary

Approved by the City Council Date _____

Mayor, City of Justin

Attest, City Secretary

(SIGNATURE BLOCK FOR PLATS APPROVED BY CITY STAFF, AMENDING PLATS AND MINOR PLATS ONLY)

Approved by the Planning and Development Department Date _____

City Manager

Attest, City Secretary

c. Visibility, access and maintenance easements (example).

The area or areas shown on the plat as "VAM" (visibility, access, and maintenance) easements(s) are hereby given and granted to the city, its successors and assigns, as an easement to provide visibility, right of access, and 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, it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The city may withdraw maintenance of the VAM easement at any time. The ultimate maintenance responsibility for the VAM easement shall rest with the owners. No structure, object, or plant of any type may obstruct vision from a height of twenty-four (24) inches to a height of eleven (11) feet above the top of the curb, including, but not limited to buildings, fences, walks, signs, trees, shrubs, cars, trucks, etc., in the VAM easement as shown on this plat.

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.

d. Fire lanes (example).

That the undersigned does hereby covenant and agree that he (they) shall construct upon the fire lane easements, as dedicated and shown hereon, an approved, hard surface (hot mix asphalt concrete 'HMAC' or concrete) and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction, including but not limited to the parking of motor vehicles, trailers, boats or other impediments to the access of fire apparatus. The maintenance of paving on the fire lane easements is the responsibility of the owner, and the owner shall post and maintain appropriate signs and/or markings in conspicuous places along such fire lanes, stating, "Fire Lane, No Parking/Tow-Away Zone." The police or his duly authorized representative is hereby authorized to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-52. - Development plats.

- (a) *Authority.* This section is adopted pursuant to V.T.C.A. Texas Local Government Code, chapter 212, subchapter B, sections 212.041 to 212.050, as amended.
- (b) *Applicability.* For purposes of this section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall apply to any land lying within the city or within its extraterritorial jurisdiction in the following circumstances:
 - (1) The development of any tract of land which has not been platted under section 42-47, 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 regulations, 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 acres in size, and where no public improvement is proposed to be dedicated.
- (c) *Exceptions.* No development plat shall be required, where the land to be developed or divided has received final plat approval under section 42-47 prior to the effective date of the ordinance from which this section is derived, or from which an application for preliminary or final plat approval for such land is pending on or is submitted subsequent to such date. The city council may, from time to time, exempt other development or land divisions from the requirements of this section.
- (d) *Prohibition on development.* No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this section, until a development plat has been approved by the planning and zoning commission and city council and filed with the city secretary.
- (e) *Standards of approval.* The development plan 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 master plan, thoroughfare plan, land use plan, park master plan, utility plans and applicable capital improvements plans;
 - (2) The proposed development conforms to the requirements of the zoning ordinance;
 - (3) The proposed development is adequately served by public facilities, and services, parks and open space in conformance with city regulations;
 - (4) Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered;
 - (5) The proposed development conforms to the design and improvement standards contained in the city's subdivision regulations, design construction manuals and other applicable ordinances.
- (f) *Conditions.* The city may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in subsection (e) above.
- (g) *Land study requirement.* Whenever a property owner proposes to divide land into tracts or lots each of which is greater than five acres and for which no public improvements are proposed, he shall submit a study defining the layout of streets lots, open spaces, easements, and other elements of the subdivision required to produce a developable addition together with his application for approval of a development plan.
- (h) *Approval procedure.* The application for a development plat shall be approved, conditionally denied or denied by the city council following review and recommendation by the planning and zoning commission. Upon approval or when conditions have been met as a part of the conditional denial, the development plat shall be filed with the city by the city secretary.
- (i) *Submittal requirements.* Each 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;

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-53. - 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.
- (b) *Replatting without vacating preceding plat.* A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
- (1) Is signed and acknowledged by only the owners of the property being replatted;
 - (2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the planning and zoning commission and city council; 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.
- (1) In addition to compliance with (b) above, a replat without vacation of the preceding plat must conform to the requirements of this section if:

- a. 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
 - b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - c. Compliance with this subsection (c) is not required for approval of a replat of part of the preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.
- (d) Notice of the public hearing required under (b) above shall be given before the fifteenth day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county and by written notice, with a copy of any special conditions, sent to the owners, as indicated on the most recently approved ad valorem tax roll of the city, of lots that are in the original subdivision within 200 feet of the lots to be replatted. 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. The city manager may, at their discretion, require the display of a sign on the property indicating that an application is pending approval for a replat. Information regarding property owners of record who are entitled to receive written notice as established herein shall be provided by the subdivider prior to the development review committee (DRC) comment and plat application deadline.
- (e) If 20 percent or more of the owners to whom notice is required to be given under subsection (b) above file with the city a written protest of the replatting before or at the hearing, approval of the replat will require the affirmative vote of three-fourths of the city council members present. In computing percentages of ownership, each lot is considered equal to all other lots regardless of size or number of owners, and the owners of each lot are entitled to cast only one vote per lot. The area of streets and alleys shall be included in computing the percentage of land area.
- (f) Any replat which adds or deletes lots must include the original subdivision boundaries.
- (g) If the previous plat is vacated as prescribed in Section 212.013 of the V.T.C.A. Texas Local Government Code, a public hearing is not required for a replat of the area vacated.
- (h) 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.
- (i) The title shall identify the document as "Lots _____, being a replat of Lots _____ of Block _____ of the _____ Subdivision".
- (j) All taxes including a tax certificate with all plats and other fees due on replatted lots shall be paid and cleared before final approval of the replat by the city council.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-54. - Plat expiration term after city approval.

Any plat, final plat, minor plat, amending plat or replat shall be deemed to have expired and become null and void, if it has not been appropriately filed of record at the Denton County courthouse within six months from the approval date of the city. Should the plat become null and void, the subdivider will be required to file a new pre-application proposal for review, comment and action and pay all required application and review fees.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Secs. 42-55—42-80. - Reserved.

ARTICLE III. - SUBDIVISION DESIGN STANDARDS

Sec. 42-81. - Streets.

- (a) The arrangement, character, extent and location of all streets shall conform to the requirements of this chapter, the city master plan and technical construction standards and specifications, and shall be considered in their relation to existing and planned streets or driveways, to topographical conditions, to drainage constraints, to public safety and in their appropriate relations 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 having the effect of restricting or damaging the adjoining property for subdivision purposes or which will not be taxable or accessible for special improvements shall not be permitted in any subdivision.
- (b) Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation and shall be properly related to the master plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development.
- (c) Any land study or subdivision plat involving a change to a proposed alignment shown in the master plan must be preceded by submission of a request for change to the city staff and the planning and zoning commission. The commission will forward a recommendation to the city council to either disapprove the request or approve an amendment changing the alignment shown in the plan.
- (d) When a street is not shown on the master plan, the arrangement of streets in a subdivision shall:
 - (1) Provide for the continuation or appropriate projection of existing streets in surrounding areas;
 - (2) Conform to a plan for the neighborhood approved or adopted by the city to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impracticable;
 - (3) Provide for future access to adjacent vacant areas which will likely develop under a similar zoning classification;
 - (4) Not conflict in any way with existing or proposed driveway openings;
 - (5) Allow for the appropriate dedication and/or improvement on each plat application to meet the minimum street construction and right-of-way standards.
- (e) All dedicated public streets shall conform to the requirements set forth in the City of Justin Technical Construction Standards and Specifications (TCSS) Manual.
 - (1) Additional right-of-way other than the minimums shown above in the TCSS manual, may be required at intersections and high volume driveways for turning lanes. This additional right-of-way will be determined by the city during the design phase of the street system and before submittal of the final plat.
 - (2) All proposed streets shall be planned, designed and constructed based on their anticipated function, traffic volumes, adjacent land use and system continuity.
 - (3) Where a subdivision abuts or contains an existing or proposed primary thoroughfare, the city may require marginal access streets, reverse frontage (lots which back to the primary thoroughfare), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection to residential properties and to afford separation of through and local traffic.
- (f) Residential streets shall be so laid out that their use by through traffic will be discouraged, but access is provided to adjacent subdivisions.
- (g) Intersecting streets with centerline offsets of less than 125 feet shall be avoided. Greater centerline offsets as may be required by the city shall be provided where necessary.

- (h) Reserve strips controlling access to streets or alleys shall be prohibited except where their control is definitely placed by the city under conditions approved by the planning and zoning commission and city council.
- (i) Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the requirements of this chapter and the master plan, and where the city finds it will be practical to require the dedication of the other one-half when the adjoining property is subdivided. If the owner or subdivider is responsible for one-half of the street, the owner or subdivider shall escrow the amount of the construction cost of the facility, unless the city participates in the construction of the facility. Whenever a partial street previously has been platted along a common property line, the other portion of the street shall be dedicated. Improvements shall be made to all on site facilities as defined herein (see definitions, section 42-16).
- (j) A street ending permanently in a cul-de-sac shall not be longer than 600 feet and at the closed end shall have a turnaround provided for, having an outside roadway diameter of at least 80 feet and a street property line diameter of at least 100 feet. The cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of cul-de-sac turnaround. A street ending in a temporary cul-de-sac to allow for subsequent phasing of the development or continuation of a road at a later date may be used, provided that: The closed end shall have a turnaround outside roadway diameter of at least 80 feet with the roadway base, materials and design thickness to be approved by the city engineer; the easement or proper dedication shall be in place to allow for the public usage of the temporary cul-de-sac; and, the subdivider shall provide surety in the amount to cover a standard cul-de-sac design meeting the standard specifications of the city for a permanent cul-de-sac. If necessary, the city may draw from the surety in order to construct the permanent cul-de-sac prior to the term of the filed surety expiring.
- (k) Dead end streets are not allowed except to provide for access to adjacent land areas and in no case shall be more than 250 feet in length or equal to one lot depth, whichever is greater. Any dead end street of a permanent or a temporary nature, if longer than 250 feet, shall have a surfaced turning area 80 feet in diameter for a cul-de-sac. Where adjacent property contains an existing dead end street over 250 feet in length without a cul-de-sac which abuts the proposed subdivision, the public works director shall require the subdivider to construct a cul-de-sac as provided above.
- (l) New streets which are an extension of existing streets shall bear the names of existing streets and shall be dedicated at equal or greater widths than the existing streets but not less than those presented in the TCSS manual. No new street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the city council based on the street names approved on the preliminary plat.
- (m) All new streets dedicated within a subdivision shall be constructed in accordance with the current approved design requirements, TCSS manual and any other relevant policy or regulation at the time at which the final plat is approved.
- (n) Subdivisions generally shall provide one point of access in each direction (north, east, south and west) to adjacent property or to a thoroughfare. All residential developments shall provide no less than one entrance for each 50 lots including stubs for future development or connection to an existing thoroughfare or collector.
- (o) At any time during the pre-application proposal or plat application process, the city engineer may require a sight-distance study and/or a traffic impact analysis for any portion of the tract to be subdivided. The plat or any related development application which requires a traffic impact analysis or study shall be held as 'incomplete' by the city and not scheduled for a public hearing until the results of the completed study or traffic impact analysis has been submitted to, and reviewed by the city engineer and any affected public agency [such as the State of Texas if required]. Based on the study or analysis, the city engineer may impose stricter standards on the proposed plat in accordance with article III of this chapter. The city engineer shall forward a report on the traffic impact analysis or study to the planning and zoning commission and council at the next available public hearing to assist in their determination of the impact of the development to the existing and proposed roadway infrastructure, as well as assess any safety concerns.

- (p) Streets which dead end at power lines or similar rights-of-way, and which are intended for future extension across these rights-of-way, shall be constructed in the right-of-way for half the distance across the rights-of-way. Streets which dead end at railroad rights-of-way shall not be required to be constructed over the railroad right-of-way by the subdivider but an agreement must be reached regarding the timing and construction of the crossing by the railroad owner.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-82. - Alleys.

Alleys shall be generally optional in all zoning districts. Alleys, or loading courts, with a minimum paved width of 20 feet or in lieu thereof, off-street loading space, may be provided in commercial and industrial areas. Alleys shall be provided where alleys of adjacent subdivisions already platted would be closed or dead-ended by failure to provide alleys in the new subdivision. New residential alleys, if provided or required as noted above, shall have a minimum paved width of 15 feet and a right-of-way width of 20 feet.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-83. - Easements.

- (a) Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be of such widths as may be reasonably necessary for the utility or utilities using same. A minimum utility easement 15 feet in width adjacent to all street rights-of-way shall be provided for gas, electric, telephone, communications, television and other utilities approved by the city. A minimum five-foot utility easement shall be located along all side and rear property lines, unless determined otherwise by the city. It shall be the subdivider's responsibility to determine appropriate easement widths as required by other utility companies. (Also see section 42-88.)
- (b) City water and city wastewater mains will generally be installed in street right-of-way. The following minimum easement width requirements are for city water and city wastewater mains not installed in street right-of-way:
- (1) Where a city water main less than 16-inch (ID) or sanitary sewer main less than 18-inch (ID) crosses private property, at a maximum depth of ten feet (measured from ground level to flowline of pipe), a minimum 15-foot wide permanent utility easement (UE) centered on the utility is required.
 - (2) For larger main sizes, where the maximum depth is ten feet, the following table shall apply:

Main Size (ID)	Minimum Easement Width
Water main between 16" and 20"	20 feet
Water main between 24" and 30"	25 feet
Water main 36" and larger	30 feet
Wastewater main between 18" and 24"	20 feet
Wastewater main between 27" and 48"	25 feet

Wastewater main 54" and above	30 feet
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- (3) For all water and wastewater mains with depths greater than ten feet (measured from ground level to flowline of pipe), the following equation will apply:

$$\text{Minimum easement width} = ((\text{depth of pipe} \times 2) + (\text{OD of pipe}) + (2 \text{ feet}))$$

Note that OD in the equation is outside diameter. Easement width shall be rounded up to nearest five feet. Easement shall not exceed 50 feet in width unless required by special circumstances.

- (c) Where a subdivision is traversed by a watercourse, drainage way, or channel, there shall be provided a drainage easement conforming substantially with such course width plus an additional width of 15 feet on each side of the watercourse, drainage way or channel for access and maintenance. Parallel streets or parkways may be required adjacent to creeks or drainage ways to provide maintenance access or access to recreation areas.
- (d) A lot area shall be computed inclusive of all easements. There shall be a minimum buildable area, exclusive of easements, for each lot.
- (e) Where alleys are not provided in a residential subdivision, a minimum ten-foot utility easement shall be provided along the rear of all lots within the subdivision. Where there are no adjoining easements existing, a minimum of ten feet will be required.
- (f) A 25-foot by 25-foot triangular visibility, access and maintenance easement (VAM) is required on corner lots at the intersection of two streets. A 25-foot by 25-foot triangular visibility, access and maintenance easement (VAM) is required on lots at the intersection of an alley and a street. In all such cases, the full VAM statement of restriction contained herein, shall be placed in the dedication instrument or on the face of the plat.
- (g) Fire lane easements shall be provided at locations directed by the development review committee. These easements shall have a minimum width of 24 feet and a minimum height clearance of 14 feet. Any emergency access and fire lane easement more than 100 feet in length shall either connect at each end to a dedicated public street or be provided with a cul-de-sac having a minimum diameter of 100 feet with an additional distance of ten feet on all sides clear of permanent structures. The paved width of an emergency access easement may be reduced to, but not below, 20 feet provided that curbs shall not exceed five inches in height, and further provided that there shall be no obstructions which will interfere with the use of the full 24-foot width of the easement by emergency vehicles and their appurtenances.
- (h) No building or structure shall be constructed over or into an easement. If any building, structure of physical improvement is within an easement, it shall be the sole responsibility of the property owner to remove or abate the obstruction immediately at their sole cost. If the owner of the property does not remove the obstruction, the city may remove the obstruction and file a property lien and other applicable fees and/or fines against the property.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-84. - Blocks.

- (a) The length, width, and shapes of blocks shall be determined with due regard to:
- (1) Provision of adequate building sites suitable to the special needs or the type of use contemplated.

- (2) Zoning requirements as to lot sizes, setbacks, and dimensions.
 - (3) Needs for convenient access, circulation, control, and safety of street traffic.
- (b) In general, intersecting streets, determining the blocks, lengths and widths, shall be provided at such intervals as to serve cross-traffic adequately, provide adequate fire protection, and to meet existing streets or customary subdivision practices. Where existing subdivision controls, the block lengths shall not exceed 1,200 feet in length. Where no existing subdivision controls, the blocks shall not be less than 500 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 to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-85. - Lots.

- (a) Lots shall conform to the minimum requirements of the established zoning district.
- (b) Each lot shall front on either a dedicated public street or a private street that has access to a public street. Lots shall also have a minimum of 35 feet frontage along a dedicated street.
- (c) Irregular-shaped lots shall have sufficient width at the building line to meet frontage requirements of the appropriate zoning district. Also, the rear width shall be sufficient to provide access for all necessary utilities including refuse collection when alleys are present.
- (d) Side lot lines shall be generally at right angles or radial to street lines.
- (e) Double frontage lots shall be avoided except where essential to provide separation of residential development from thoroughfares as defined in section 42-81(f) or to overcome specific disadvantage to topography and orientation. Where lots have double frontage, a front building line shall be established for each street.
- (f) Double frontage lots in residential subdivisions will not be allowed without providing screening walls/fences in accordance with the city's screening standards.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-86. - Building site.

The subdivider shall be required to fill the building pad to the city's adopted building code regarding foundation elevation, or a minimum standard of the following (whichever is the most restrictive):

- (1) A two percent rise from the flowline-of-curb within the gutter, measured horizontally from the top-of-curb to the proposed structure, plus an additional 12 inches of vertical fill to be placed in six-inch lifts at the building pad. Such fill located at the building site shall meet or exceed a minimum of a 95 percent compaction rate as determined by the Standard Proctor Method (ASTM D-698). Proof of compaction shall be provided at the expense of the applicant, subdivider or builder. Tests verifying compliance with this section shall be conducted by a certified lab and the results forwarded to the development coordinator prior to permit approval.
- (2) The planning and development department may approve alternative standards of site grading provided that the applicant, subdivider or builder supplies the city engineer with proof that:
 - a. An alternative, appropriate drainage facility (i.e., lake, river, drainage channel, etc.) exists other than the top-of-curb;
 - b. Such facility is constructed and in-place prior to the city approving a building permit for the building site. Additionally, structures built below the standard set forth in section 42-86(1)

will be graded to appropriately accommodate storm runoff around the structure. In no instance may the site be graded or the impervious cover be such that it allows for runoff or sheet-flow into any part of the structure; and

- c. The grading and drainage of residential lots meet the requirements of the City of Justin Technical Construction Standards and Specifications.
- (3) Each building finished floor shall be equal to or elevated above the minimum finished floor, if any, specified on the final plat.
- (4) Each residential and commercial building site located within the corporate boundary of the city shall be required to install sidewalks in accordance with this Code. The sidewalk standards are as follows:
- a. *Commercial uses.* Five-foot width, from back of curb of the public or private street towards the lot; and
 - b. *Residential uses.* Four-foot width, beginning five feet from the back of curb toward the lot.

The city may withhold a certificate of occupancy for a commercial use and final inspection approval for a residential structure if sidewalks are not properly installed, inspected and accepted by the city's building official.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-87. - Building lines.

Front or street side building lines shall be shown on the final plat on all lots having street frontage and shall be consistent with the zoning ordinance at the time of platting.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-88. - Utility services (not provided by city).

- (a) For purposes of this section, the following meanings shall apply:

Feeder or feeder/lateral line means high voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

Lateral lines means 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.

Service lines means those electric lines used to connect between the utilities' supply system or lateral lines and the end users meter box.

Utility services means the facilities of any person, firm or corporation providing electric, telephone, fiber, TV cable, or any other such item or service for public use approved but not provided by the city.

- (b) All subdivision plats and construction plans filed with and submitted to the city for approval shall provide for utility services such as electrical, gas, telephone, fiber, and cable TV utility (lateral and/or service distribution) lines and wires to be placed underground. Feeder and other major transmission lines may remain overhead. However, a subdivider shall endeavor, and whenever practical, the city shall require that feeder lines are placed away from traffic arteries. Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way. Verification of acceptance of easement locations and widths by the public utilities should be provided prior to final plat approval by the city council, and all easements should be reviewed by the utility

companies and director of public works for the city prior to granting final approval for all residential subdivisions affected by this section.

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

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-89. - Water and wastewater facilities.

- (a) All new subdivisions shall be connected with an approved water system designed, constructed, and capable of providing water for health and emergency purposes, including fire suppression. All subdivisions must be served by an approved means of wastewater collection and treatment. The city may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. It shall be the subdivider's responsibility to extend utility lines to provide water or sanitary sewer service.
- (b) It shall be the subdivider's responsibility to design all improvements according to the latest edition of the City of Justin Technical Construction Standards and Specifications Manual. The city may require that the subdivider oversize the water system and/or the sanitary sewer system where necessary to serve land other than the tract or lots to be platted, including the oversizing of off-site water or wastewater mains necessary to extend service to the property to be platted.
- (c) Extension of all utilities adjacent to any subdivision shall be made along the entire frontage of the subdivision adjacent to street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in a manner to allow future connection to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the development coordinator in consultation with the public works director/city engineer may waive the requirement for adjacent utility line construction.
- (d) Installation of utilities not specifically referenced herein shall comply with the Texas Commission on Environmental Quality (TCEQ) rules and regulations.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-90. - Storm drainage facilities.

Drainage improvements shall be designed and developed in accordance with the City of Justin Technical Construction Standards and Specifications (TCSS) Manual. The following requirements shall also govern the design of all drainage facilities within the corporate limits of the City of Justin, Texas, and its extraterritorial jurisdictional area:

- (a) The drainage facilities within the proposed subdivision shall be designed to accept the ultimate development stormwater runoff from upstream areas, carry the stormwater runoff through the proposed subdivision and discharge the stormwater runoff appropriately downstream.
- (b) The owner's engineer shall determine the effect of each additions storm runoff, including all upstream runoff, on the existing drainage facilities immediately downstream of the addition. Where it is determined that existing capacity is not available immediately downstream and that property owned by others will be adversely affected with the calculated runoff, the owner's engineer shall design a drainage system, detention facility or parallel system to mitigate the problem. The city council may withhold approval of the plat until such mitigation has been provided.
- (c) Lakes, detention ponds and retention ponds will be considered, and may be constructed, provided they are approved by the city council in consultation with the development review committee. The city may assume maintenance responsibilities for this type of facility only if it is wholly contained within an area the city can utilize for parks, recreational or other public purposes. If not accepted by the city, necessary floodplain easements and maintenance agreements shall be provided to insure maintenance of the facility.
- (d) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within public rights-of-way, drainage easements shall be provided across private property to an acceptable outfall or to other public right-of-way.
 - (1) Drainage easements with a minimum width of 15 feet shall be provided for existing and proposed underground drainage systems. When the system consists of larger diameter pipe or when the depth of the system or the soil conditions dictate, additional easement width shall be provided.
 - (2) Drainage easements along proposed or existing improved drainage channels shall provide sufficient width to include a channel designed to convey a 100-year design frequency storm plus one foot of free board within its banks and an additional width of 15 feet along each side shall be required to provide ingress and egress for proper maintenance of the facility. The access portion of the easement shall be above the 100-year design frequency storm elevation and accessible to vehicles and equipment. The entire drainage easement shall remain unobstructed at all times. Access to the channel easement must also be provided at a maximum of 1,200 foot spacing along streets or other public right-of-way.
 - (3) When a proposed drainage system will convey or discharge storm flow across or onto private property outside the subdivision or addition, appropriate drainage easements must be secured by the subdivider.
 - (4) The widths and lengths of the drainage easements described in items (1) through (3) above shall be substantiated by a drainage study and drainage calculations or other criteria submitted to and approved by the city.
- (e) Proposed subdivisions containing a Federal Emergency Management Agency (FEMA) area of special flood hazard must comply with the provisions of the city's flood damage prevention regulations. Floodplain easements shall be provided along natural channels, major creeks, lakes, detention ponds and retention ponds. Floodplain easements shall encompass all areas beneath the water surface elevation resulting from a storm whose design frequency is 100 years, plus such additional width as may be required to provide ingress and egress to allow for the maintenance of the facility and for the protection of adjacent property, as determined and required by the city. The access portion of the easement shall be above the 100-year design frequency storm elevation.
 - (1) All floodplains or regulated floodways presented on the flood insurance rate map (FIRM) shall be shown on the plat. If the above referenced maps do not specify a flood area along any of the above creeks or their tributaries, it shall be the subdivider's responsibility to establish and identify needed easements.

- (2) The city council may, when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, wastewater and drainage facilities prohibit development of any portion of the property which lies within a floodplain. Such a floodplain shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except as specifically approved by the city. When floodway easements, within a floodplain easement, are required or proposed, they shall be shown along the improved or unimproved drainage way. Floodway easements are the unobstructed portion of the floodplain consisting of the primary channel and overbank areas capable of conveying the 100-year frequency discharge without increasing the design flood elevations as defined by FEMA.
- (f) In those cases where the proposed improvements or development plans alter and/or impact a FEMA floodplain or floodway easement, the subdivider shall apply to and submit to FEMA, and any other regulatory agencies all engineering data and information requested to obtain an approved "letter of map revision." Only after a new or revised floodplain or floodway area is designated by FEMA will the city approve the proposed plans.
- (g) Maintenance agreements between an approved maintenance entity and the city shall be required when an improved drainage channel, in a drainage easement, is constructed as an unlined channel or when a floodplain easement is proposed.
 - (1) An individual residential lot owner does not constitute a maintenance entity. A maintenance entity may include homeowner's associations, apartment complexes, or similar groups. The maintenance entity's by-laws and covenants filed of record, shall provide for ongoing maintenance. The agreement shall authorize a lien against individual abutting lots in favor of the city to secure the payment to the city for any expenses incurred by the city for maintenance in the event of default by the maintenance entity.
 - (2) An owner or owners of a nonresidential property or properties may create a maintenance entity to maintain drainage or floodplain easements, provided the entity's by-laws and covenants filed of record, provide; for on-going maintenance. Such agreements shall authorize a lien against individual abutting properties in favor of the city to secure payment for any expenses incurred if the maintenance entity is not properly maintaining the creek or drainage way, in the city's sole opinion.
- (h) Border channels shall be improved as per the "public improvements policy" at the time of development unless conditions preclude improvements, at that time, as determined by the development review committee. In no case shall property adjacent to a recognized drainage way be final platted unless provisions are made for making it conform to all city drainage and/or floodplain criteria. The design shall protect all platted property and shall not adversely affect property owned by others. The developing party is responsible for constructing, if necessary, a reasonable portion of the drainage way applicable to the property being developed. In no case shall any segment or portion of the drainage way be neglected by the present or future development. This may require the platting of a floodplain easement, as described above, and entering into a maintenance agreement for the property to be final platted.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Secs. 42-91—42-114. - Reserved.

ARTICLE IV. - IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE CITY

Sec. 42-115. - Improvements.

- (a) The requirements of these subdivision regulations are designed and intended to ensure that all improvements 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;
 - (3) It is necessary and desirable to provide for dedication of rights-of-way and easements for public works improvements to support new development at the earliest stage of the development process;
 - (4) The city desires to assure both that impacts of new development are mitigated through contributions of rights-of-way, easements and construction of capital improvements, and that a new development be required to contribute not more than its proportionate share of such costs;
 - (5) Proposed public works improvements serving new development shall conform to and be properly related to the public facilities elements of the city's adopted master plan, other adopted master plans for public facilities and services, and applicable capital improvements plans, and shall meet the service levels specified in such plans; and
- (b) The land to be subdivided or developed must be served adequately by essential public facilities and services. No subdivision related application, plat or development shall be approved unless and until adequate public facilities exist or provision has been made for the installation of all water, wastewater, storm drainage, street, park facilities, street light improvements and electrical facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or offsite. This policy may be defined further and supplemented by other ordinances adopted by the city. The public improvements required by the city for the acceptance of the subdivision shall include, but are not limited to those set forth in these regulations, the city TCSS Manual and this Code.
- (c) All aspects of the design and implementation of public improvements shall comply with the current local, state and federal design standards and any other applicable city codes and ordinances, including the preparation and submittal of construction plans and specifications. Technical construction standards and specifications for all improvements shall be made in compliance with this chapter, the city's TCSS Manual and this Code, unless otherwise specified in the following sections.
- (1) The standards established in this chapter, the TCSS Manual and this Code are for the proper dedication and construction of public works improvements and infrastructure and are based upon engineering studies and historical usages and demands by different categories of development. These regulations identify certain minimum requirements and sizes for utilities, roadways, parks and other facilities that the city council has determined to be necessary in order to provide the minimum level of service necessary to protect or promote the public health, safety, and welfare and to assure the quality of life currently enjoyed by the citizens of Justin. It is the intent of these regulations that no development shall occur until and unless these minimum levels of service are met. Therefore, each subdivision in the city shall be required to dedicate, construct and/or upgrade required facilities and infrastructure to a capacity that meets these minimum levels.
 - (2) For each category of public infrastructure, a minimum standard of infrastructure, and in some cases, service level, has been developed based upon historic studies and construction projects of the city and other cities. These minimum standards take into consideration the soil conditions and topographic configuration of the city, the use and impact analyses of the North Central Texas Council of Governments in developing standard specifications for public works installation, and other historical use and performance experiences of the city that reflect the minimum level of facilities and services that must be built to meet the health, safety and welfare of the citizens of Justin.
 - (3) In order to maintain prescribed levels of public facilities and services for the health, safety and general welfare of its citizens, the city may require the dedication of easements and rights-of-way for the construction of on-site or off-site public works improvements for water, wastewater, road, drainage or park facilities to serve a proposed subdivision, or require the payment of fees in lieu thereof. If adequate levels of public facilities and services cannot be provided concurrent with the schedule of development proposed, the city may deny the subdivision until the public

facilities and services can be provided, or require that the development be phased so that the availability and delivery of facilities and services coincides with the demands for the facilities created by the development.

- (4) Whenever the city council determines that levels of service in excess of these minimum standards are necessary in order to promote the orderly development of the city, the owner shall qualify for reimbursement for any costs in excess of the minimum levels of service through city participation, to the extent funds are available by a pro rata reimbursement policy or other means adopted by the city.
- (d) The subdivider/owner shall employ an engineer proficient in civil engineering and licensed or registered by the State of Texas for preparation of the drainage plan, cost estimates and, construction plans and specifications for all public improvements.
- (e) The city shall require an initial demonstration that a proposed subdivision shall be adequately served by public facilities and services at the time for approval of the first development application that portrays a specific plan of development, including but not limited to a petition for establishing a planned development zoning district or other overlay zoning district, a public improvements agreement, development agreement or a pre-application proposal for a plat which requires public improvements.
- (f) The obligation to dedicate rights-of-way for or to construct one or more public works improvements to serve a new subdivision may be deferred until approval of a subsequent phase of the subdivision where, in the opinion of the city engineer, the right-of-way dedication and/or construction of the infrastructure is necessary to meet the minimum standards or intent of this chapter or other adopted policy of the city, upon written request of the property owner or at the city's own initiative. As a condition of deferring the obligation, the city may require that the subdivider include provisions in the public improvements agreement or development agreement specifying the time for dedication of rights-of-way for or construction of public works improvements serving the subdivision.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-116. - Streets.

All streets, alleys and other improvements within the public right-of-way shall be designed and constructed in accordance with the requirements of this chapter, and the City of Justin's Technical Construction Standards and Specifications (TCSS).

Proposed roads shall provide a safe, convenient and functional system for vehicular, bicycle and pedestrian circulation and shall be properly related to the applicable thoroughfare plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. New subdivisions shall be supported by a thoroughfare network having adequate capacity, and safe and efficient traffic circulation. Each development shall have adequate access to the thoroughfare network.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-117. - Monuments and markers.

- (a) *Permanent survey markers.* All boundary corners, block corners, etc., as established in the process of creating a subdivision plat shall comply with the Texas Board of Professional Land Surveying Practices Act and General Rules of Procedures and Practices.
- (b) *SPC coordinates.* A minimum of two monuments at prominent locations (block corners, boundary corners, etc.) within a subdivision shall have Texas State Plane Coordinates (SPC) in U.S. Survey Feet noted on the subdivision plat. The Texas State Plane Coordinate (SPC) shown on the subdivision plat shall have the appropriate metadata listed.

- (c) *Elevation data.* A minimum of two monuments at prominent locations (block corners, boundary corners, etc.) within a subdivision of which require minimum finished floor elevations on all or part of the lots shall have the mean sea level elevations noted on the subdivision plat. The mean sea level elevations shown on the subdivision plat shall have the appropriate metadata listed.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-118. - Storm drainage facilities.

All storm drainage facilities shall be designed and constructed in accordance with the requirements of this chapter and the City of Justin's Technical Construction Standards and Specifications (TCSS).

Drainage improvements serving new development 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, the construction of off-site drainage improvements, or drainage impact fees in order to mitigate the impacts of the proposed subdivision. The applicant may propose and the city may require the phasing of development and/or improvements in order to accommodate appropriate drainage design.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-119. - Wastewater facilities.

All wastewater facilities shall be designed and constructed in accordance with the requirements of this chapter, the city's sewer master plan and the City of Justin's Technical Construction Standards and Specifications (TCSS).

All lots to be platted or land to be developed shall be served by an approved means of wastewater collection and treatment. The city shall be responsible for determining compliance with the city's TCSS and the approved means of wastewater collection and treatment. The applicant may propose and the city may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. It shall be the responsibility of the subdivider to extend the central wastewater main through the entire public or private street frontage or through the platted or developed subdivision or lot in order to allow for the continuation and extension of public services in order to accommodate growth.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-120. - Water facilities.

All water facilities shall be designed and constructed in accordance with the requirements of this chapter, the city's water master plan and the city's Technical Construction Standards and Specifications (TCSS).

All lots to be platted or land to be developed shall be connected to an approved water system which has capacity to provide water for domestic use and emergency purposes, including adequate fire suppression. The applicant may propose and the city may require the phasing of development and/or improvements in order to maintain adequate water capacity. It shall be the responsibility of the subdivider to extend the central water main through the entire public or private street frontage or through the platted or developed subdivision or lot in order to allow for the continuation and extension of public services in order to accommodate growth.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-121. - Utility services.

- (a) All services for utilities shall be made available for each lot in such a manner so as to eliminate the necessity for disturbing the street pavement, curb, gutter, and drainage structures when connections are made.
- (b) The subdivider shall make arrangements with all other appropriate utility companies for the extension of their respective utility lines and service to and, within the subdivision or addition and for any costs or refunds of such cost.
- (c) Gas lines shall be located behind the curb or off the edge of pavement.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-122. - Street lights.

All streetlights shall be designed and constructed in accordance with the requirements of this chapter, and the city's Technical Construction Standards and Specifications (TCSS). A street lighting plan shall be required by the city as a part of the pre-application submittal process and if required, shall be filed prior to the development review committee (DRC) comment and plat application deadline.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-123. - Street names and signs.

- (a) Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.
- (b) All street name signs shall be designed and constructed in accordance with the requirements of this chapter, and the city's Technical Construction Standards and Specifications (TCSS).
- (c) Street names shall be labeled on the final plat and city council shall review street names and approve them during the final plat.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-124. - Improvement of adjacent existing streets and utilities.

- (a) When a proposed subdivision of land, whether residential or nonresidential, abuts on both sides of an existing substandard road, being substandard according to the definition in section 42-17, the subdivider shall be required to improve the existing on-site road, including on-site sidewalks, storm sewers and other utilities as defined in section 42-17, to bring the same to city standards, or to replace it with an appropriate standard city street in accordance with the requirements of the city's Technical Construction Standards and Specifications (TCSS).
- (b) When a proposed subdivision of land, whether residential or nonresidential, abuts on one side of an existing substandard road the subdivider shall be required to either:
 - (1) Ensure that the entire right-of-way be dedicated and/or improved to the city's design standards, based upon factors including the impact of the proposed subdivision on the road, safety to the traveling public, conditions and life expectancy of the road, the impact of the proposed subdivision on other roads, the timing of this development in relation to need for improving the road and the impact of the traffic on the road and city's roadway system as a whole. At a minimum, the subdivider will be required to construct a new roadway being equal to a minimum of one-half the width of the required classification of street

OR

- (2) Provide the city with funds equivalent to the cost of constructing said roadway (i.e., pavement, curb and gutter, storm drainage, water and wastewater, street lights, sidewalks and street signs).

The choice as to which option is selected shall be made by the city.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-125. - Electrical, telephone and cable services.

- (a) Utility lines for electric service, telephone service and cable television service shall be installed underground in any new subdivision platted after approval of the ordinance from which this chapter is derived.
- (b) Service to all street light poles shall be underground.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-126. - Park land dedication policy.

- (a) *Need and purpose.* This section will insure the provision of adequate park and recreational areas that are needed for healthy residential neighborhoods within the city. Neighborhood park facilities that are close to each home and are developed to allow full recreational fulfillment are vital to the health and welfare of each and every citizen within the city. New residential development or an increase in density by redevelopment in existing neighborhoods creates the need for additional park and recreation facilities. This policy governs all park dedication and improvement requirements for subdividers who are required to file a pre-application. Proposal or plat application under this section. This policy also provides for needed land acquisition for parks that serve new residential development or an increase in density by redevelopment in existing neighborhoods. The city has developed and adopted general planning standards for parks that are included within the city's master park, recreation and open space plan.
- (b) *Planning.*
 - (1) The city will require residential subdividers to dedicate land and recreation improvements for parks or pay a fee in lieu thereof as a condition of the platting process, just as land for streets, alleys, utility easements and other improvements directly attributable to the development of a new residential neighborhood are dedicated. The development review committee and subdivider will negotiate a combination of fees and park land dedication or cash-in-lieu thereof that satisfies the requirements of this chapter. Terms of this negotiation will be presented to the planning and zoning commission for recommendation and ultimately to the city council for approval.
 - (2) The overall program and full implementation of this section (Park dedication policy) shall generally follow the city's master park, recreation and open space plan. The development review committee may develop implementation guidelines to insure the fair and objective application of this park dedication policy.
 - (3) Where recreation facilities are built for the residents of a subdivision development, a credit may be given to the subdivider for all or a portion of the land dedication (or fee-in-lieu thereof) and the park development fee based on the value of the developed park (see development options and credits). At the discretion of the development review committee, a credit of up to 100 percent of the total amount of the park development fee may be issued.
 - (4) Park infrastructure. The subdivider will bear the cost of all improvements, including streets, water, sewer, storm drainage and street frontage directly related to park sites between three and 20 acres in size. The subdivider will provide no less than 150 feet of street frontage for each three acres of park land. The required frontage can be a combination of contiguous park

access drives, street frontage or access easements. Credit may also be given for access easements that allow access into the park from the surrounding neighborhood.

(c) *Site selection/characteristics of parks.*

- (1) In selecting a site for a park, the city will avoid an accumulation of non-contiguous parcels of land or an accumulation of land unsuitable for park purposes.
- (2) Parks sites will be selected on the basis of obtaining natural, park-like settings where available and will consist of diverse topography and open space suitable for the development of recreational facilities.
- (3) If a subdivision cannot provide the minimum three-acre parcel or a smaller parcel which can potentially be contiguous to existing or future park parcels, then a fee in lieu of park land or a combination of fee and park land dedication will be required at the discretion of the development review committee (DRC) during the pre-application proposal process.
- (4) Park sites will be located, whenever possible, adjacent to and contiguous with school sites and other public or non-profit agency sites in order to make maximum use of common public facilities and grounds.
- (5) Careful consideration will be given to the need for development of linear parks around natural drainage and wooded areas that provide potential recreational uses. Floodplain (based upon 100-year storm) and floodway will be accepted for park development in the following ratios.
 - a. Floodplain and natural drainage areas should not exceed 75 percent of the total park site.
 - b. At least 50 percent of required dedicated park land should have slopes in range of two to five percent, well-drained, and suitable for active use development.
 - c. There will be no reduction in credit for dedication of floodplain as compared to non-floodplain property, provided the dedication satisfies provisions a. and b. above.
 - d. When development occurs near a floodway that is designated as part of the city's greenbelt/trail system or determined to be suitable for trail development by the development coordinator, the subdivider will be required to develop that section of the greenbelt/trail system that occurs within his/her development. The subdivider will construct the trails and adjacent facilities in accordance with planning and development department design criteria and specifications. In order to facilitate greenbelt/trail development, the development review committee may, at their discretion, credit the subdivider up to 100 percent of the required land dedication and development fee. The cost for the trail's development will be borne by the subdivider and will not exceed the required park development fee.
 - e. Proposed park land boundaries of park dedications will provide reasonable access to improved street frontage for readily accessible entry into the park area by the public.

(d) *Land dedication.* Any required conveyance of land attributed to a proposed residential subdivision/(re)development will be roughly proportionate to the its number of residential units and population density.

- (1) Minimum requirement. For each submitted residential subdivision plat, the minimum park land dedication requirement is one acre of park land per 25 units, as shown on the total build-out for the development (inclusive of all phases). This property is accepted at the ratios and specifications as set forth in section 42-126(c) (Site selection and characteristics of parks). The cash-in-lieu portion of the land dedication is contained within the city's adopted fee schedule. The city council may review the cash-in-lieu of rate and adjust the rate via adoption of the fee schedule resolution. Existing planned development zoning districts establishing pre-approved site layout and geometry (prior to the effective date of the ordinance from which this chapter is derived) shall pre-empt the requirements set forth herein.
- (2) Where a subdivision plat is submitted indicating multi-family or any type of single-family attached (patio home, town home, two-family, duplex, etc.) residential development, and a table

of information is not provided indicating the number of dwelling units, the city may assume the highest density allowed in the zoning classification to be applied to the property by which to determine projected population in order to determine park dedication policy requirements. It is the responsibility of the applicant to ensure the provision of dwelling-unit information.

- (3) All determinations of required land dedication will be based upon review of all pre-application proposals submitted through the city's planning and development department. Failure to indicate proposed park dedications or fee-in-lieu-of dedication on the submitted pre-application proposal will be sufficient grounds for the city to reject the application, or to deny any concept plan, or plat application. Upon final agreement between the DRC and the subdivider regarding mutually acceptable park land, such land will be indicated on the revised plat application prior to the DRC comment and plat application deadline. Such park property will be conveyed by general or special warranty deed before release of the final plat on any or all portions of the subdivision thereof by the city for filing in the county plat records. Submission of park dedication documents is required for final plat approval. Park dedication documents include, but are not limited to:
 - a. A metes and bounds description of the park dedication property.
 - b. A survey plat of the park property only.
 - c. A copy of the subdivider's deed for the property (demonstrating ownership and right to dedicate to city).
 - d. An environmental statement (ESA Phase 1) that indicates that the park site (or the subdivision from which the park is dedicated) is free of environmental contamination or hazards.
 - e. Documents conveying ownership to the city which may be either:
 1. A special warranty deed and title policy provided by subdivider to city insuring the city in an amount equal to the value of the dedicated property; or
 2. General warranty deed.
 - (4) The city prefers the land required to be conveyed for park dedication to be located inside the subdivision development. The city council may alternatively choose to accept land conveyed for park dedication at a location outside the subdivision development so long as the land is of such proximity to the development so as to serve or benefit the neighborhood residents or better further the city's master park plan.
 - (5) If a replat is filed, the dedication requirements will be controlled by the policy in effect at the time of replat. Additional land dedication (or fee in lieu of) will be required if the actual density of residential units constructed on the property is greater than the former assumed density or additional requirements are in force as a result of the adoption of this policy.
 - (6) The city may, at its discretion, proceed to conduct such initial construction inspections, environmental tests and surveys on the land and improvements as it may deem appropriate, and the subdivider must grant to the city and its agents and employees such reasonable access to the land as is necessary to conduct such construction inspections, surveys, and tests.
 - (7) If the results of such construction inspections, surveys and tests indicate a reasonable possibility of construction failure, construction dumping, flawed construction, environmental contamination or the presence of environmental hazards, the city may require further surveys and tests to be performed at the subdivider's expense as the city may deem necessary prior to its acceptance of the dedication and improvements; or in the alternative, the subdivider may be required to identify alternative property or pay the fees in lieu of such park land dedication.
- (e) *Payment of fees in lieu of park land dedication.*
- (1) If the calculation for required park dedication within the proposed subdivision development results in less than three acres and/or does not meet site selection criteria pursuant to section

42-126 of this policy, the subdivider may pay, and/or the DRC may require a fee in lieu of park land dedication.

- (2) All fees collected in lieu of park land will be dedicated for the purpose of providing adequate park land or the maintenance or expansion of existing park land proximate to the residential subdivision development(s). However, if acquisition and development of a park is not achievable within the proposed development the development review committee, in its sole discretion, may determine that the park and recreational needs of the proposed subdivision development would be better served by the expansion of existing park sites located within or near the same neighborhood unit where the proposed subdivision development is located.
 - (3) The amount of the fee in lieu of park land dedication will be determined by the following method:
 - a. The amount equal to the fair market value of the required land dedication and, if applicable, less a credit for the value of the land actually dedicated for park and recreational purposes. The fair market value will be determined by the city as determined through independent appraisals of comparable properties.
 - b. When the subdivider disagrees with the city's fees, the subdivider at their own expense may obtain an appraisal of the property by a State of Texas certified real estate appraiser, mutually agreed upon by the city and the subdivider, which may be considered by the city in determining fair market value.
 - c. If the property was acquired by the subdivider within the last year, the subdivider may submit the contract for sale or appraisal documents related to the acquisition of the property to be considered by the city in determining fair market value.
 - (4) All fee payments made in lieu of land dedication in accordance with this policy will be pro-rated on a per dwelling unit charge based on the fair market value of the required dedication of the land and relative to the number of dwelling units included in the final plat submittal. Fees assessed at the time of final plat submittal will be based upon the current dedication requirements as listed in the most recent fiscal year's fee schedule for park land dedication fees per dwelling unit. That fee will remain unchanged over the life of the development.
- (f) *Open space and park land offsets.*
- (1) Should the density caps contained within a given zoning district result in unused acreage or "open space" in a development, the additional "space" will offset the corresponding amount of park land dedication, providing the land meets the following requirements:
 - a. The additional "open space" is suitable to provide useful recreational functions such as: Linear destination trails (those trails designed to conduct residents to the planned interlinking city wide trail system), connectivity to neighborhood facilities including shopping or schools and active park/recreation facilities.
 - b. The "open space" meets the requirements listed in section 42-126(c) (Site selection and characteristics of parks).
 - c. Unless otherwise specified and dedicated as public space on the final plat and filed for record, property designated as "open space" is maintained by the development through the institution of a home owners association (HOA). This maintenance responsibility will be shown on the HOA deeds and covenants, and shall be provided to the city at any time upon request.
- (g) *Park development required.*
- (1) The subdivider will bear a proportionate share of the cost of improvements of a park through payment of a park development fee. Such fee can include the following recreational facilities as a minimum configuration for each three acres of park land:
 - a. Playground.

- b. Picnic shelter.
 - c. Practice baseball/softball field with backstop or soccer field with goals.
 - d. Walking trail.
 - e. Multi-use slab with weatherproof basketball backboard and goal.
 - f. Site grading and preparation.
 - g. Turf and vegetation.
 - h. Paved parking areas.
- (2) The park development fee is based on the costs incurred to purchase, erect and construct the minimal park amenities identified in section 42-126(g)(1), on a three-acre tract of park land. This fee will be prorated on a per acre basis according to the park land dedication requirements of a particular development. The park development fee may be adjusted from time to time based on the annual amount of the change in the Consumer Price Index; provided, however, that the city council retains the right to adjust the fee in an amount greater than the annual amount of change in the Consumer Price Index. This fee will be over and above the amount needed for park land dedication (or cash in lieu of) and infrastructure development.
- (h) *Development options and credits.* Subdividers may select option one (1) or two (2) in consultation with the development review committee.
- (1) If mutually agreed upon by the subdivider and the development review committee, the subdivider may choose to develop the park site prior to final plat approval in lieu of submitting the park development fee. Should the subdivider choose this option, construction of the park will be accomplished pursuant to a three-party "subdivider's public improvement agreement" between the subdivider, the city and the contractor chosen by the subdivider. The cost paid by the subdivider to provide the park and recreation amenities may offset the required subdivider's public improvement agreement up to 100 percent. The park development fee will not exceed the estimated cost the city would incur to construct similar facilities. Prior to approval of a park development agreement, the subdivider must submit a conceptual master plan indicating the proposed park facilities and their locations. Upon approval of the proposed park development plan the subdivider may authorize preparation of construction documents for park development.
 - (2) In the event that the development review committee and the subdivider reach an agreement for park development prior to final plat approval, the subdivider will be required to submit park development construction plans that conform to planning and development department design, construction and specification standards. The planning and development department and the public works department will review the construction documents for compliance with city park construction requirements. The subdivider must allow city inspections of the park improvements. Prior to final plat approval the park construction must be approved and accepted by the city; or in the alternative;
 - (3) The subdivider will pay the required park development fee and the park will be scheduled for development by the public works director.
- (i) *Additional information concerning fees.*
- (1) All required fees must be paid and received before the recording/filing of the final plat (or any portions thereof) in the county plat records.
 - (2) All payments made in accordance with this policy will be deposited in a designated fund as established by the city. The city will account for all such funds paid with reference to each subdivision development. Interest earned on accumulated park acquisition and development fees designated for a specific subdivision development will be used for additional acquisition and development as described in this policy.

- (3) "Open space" offsets in section 42-126(f) (Open space and park land offsets) do not apply to the park development fee. All fees will be based upon the total park land provided with a development, whether acquired as "open space" or other dedicated park land.

(j) *Decision making; appeals.*

- (1) Unless otherwise provided in this policy, any decision will initially be made by the development review committee during the pre-application proposal and/or plat review process. The city manager, or his/her designee, will be an integral part of the decision making process for the development review committee on matters regarding parks and open space.
- (2) Decisions of the development review committee with regard to this policy may be appealed first to the city manager, then to the planning and zoning commission for recommendation, then to the city council or final action.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-127. - Proportionality determination.

- (a) Prior to a decision by the planning and zoning commission on a final plat, replat, or development plat application or any other application for which an exaction is required as a condition of approval, the city engineer shall prepare a written statement affirming that each exaction requirement to be imposed as a condition of plat approval or permit approval is roughly proportionate to the demand created by the subdivision or development on the applicable public facilities system of the city, taking into consideration the nature and extent of the development proposed. In making this determination, the city engineer may consider:
 - (1) Categorical findings of the North Central Texas Council of Governments in developing standard specifications for public infrastructure improvements;
 - (2) The proposed and potential use of the land;
 - (3) The timing and sequence of development in relation to availability of adequate levels of public facilities systems;
 - (4) Impact fee studies, traffic impact studies, drainage studies or other studies that measure the demand for services created by developments and the impact on the city's public facilities system;
 - (5) The function of the public infrastructure improvements in serving the proposed subdivision or development;
 - (6) The degree to which public infrastructure improvements necessary to serve the proposed subdivision are supplied by other developments;
 - (7) The anticipated participation by the city in the costs of necessary public infrastructure improvements;
 - (8) The degree to which acceptable private infrastructure improvements to be constructed and maintained by the applicant will offset the need for public infrastructure improvements;
 - (9) Any reimbursements for the costs of public infrastructure improvements for which the proposed subdivision is eligible; and/or
 - (10) Any other information relating to the impacts created by the proposed subdivision or development on the city's public facilities systems.
- (b) Based upon the proportionality determination, the city engineer shall affirm that the exaction requirements of the subdivision ordinance, or other ordinance requiring the permit, as applied to the proposed subdivision or development, do not impose costs on the applicant for public infrastructure improvements that exceed those roughly proportionate to the impact of the proposed subdivision or development.

- (c) The city engineer may require that the applicant, at its expense, submit any information or studies that may assist in making the proportionality determination.
- (d) Rough proportionality determination. The planning and zoning commission and city council shall consider the city engineer's report concerning the proportionality of the exaction requirements in making a decision on a plat. The planning and zoning commission and the city council may consider the city engineer's report in granting a variance to the requirements of the subdivision ordinance.

The city official responsible for issuing any permit for which an exaction requirement is imposed as a condition of approval shall consider the city engineer's report concerning the proportionality of the exaction requirements in making its decision as to whether to grant the permit.

- (e) Rough proportionality appeal. An applicant for a plat or any development which imposes an exaction requirement as a condition of approval may file an appeal to contest any exaction requirement, other than impact fees, imposed as a condition of approval or in which the failure to comply is grounds for denying the plat application pursuant to the subdivision ordinance.

The purpose of a proportionality appeal is to assure that an exaction requirement imposed on a proposed plat or development as a condition of approval does not result in a disproportionate cost burden on the applicant, taking into consideration the nature and extent of the demands created by the proposed subdivision or development on the city's public facilities systems.

- (f) Appeals procedure. An applicant for a final, replat, development plat or an applicant seeking approval for any other application or permit or zoning for which an exaction requirement is imposed shall file a written appeal with the city secretary within ten days of the date the planning and zoning commission or the city official responsible for processing the application or issuing the permit takes action applying the exaction requirement. This may include denial of the permit or plat application. The applicant shall submit 15 copies of the appeal.
 - (1) A separate appeal form shall be submitted for each exaction requirement for which relief is sought. The city secretary shall forward the appeal to the city engineer for informational purposes and the city council for consideration;
 - (2) The applicant may request postponement of consideration of the applicant's plat application by the city council pending preparation of the study required by subsection 42-127(f)(5), in which case the applicant shall also waive the statutory period for acting upon a plat for the time necessary for the city council to decide the appeal;
 - (3) No subdivider's public improvement agreement or subdivider's agreement may be executed by the city until the time for appeal has expired or, if an appeal is filed, until the city council has made a determination with respect to the appeal;
 - (4) The appeal shall state the reasons that application of the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed subdivision or development on the city's public facilities systems and does not reasonably benefit the proposed subdivision or development;
 - (5) The appellant shall submit to the city engineer 15 copies of a study in support of the appeal that includes, with respect to each specific exaction requirement appealed, the following information within 30 days of the date of appeal, unless a longer time is requested:
 - a. Total capacity of the city's water, wastewater, roadway, drainage, or park system, as applicable, to be utilized by the proposed subdivision or development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the subdivision. If the proposed subdivision is to be developed in phases, such information also shall be provided for the entire development, including any phases already developed;
 - b. Total capacity to be supplied to the city's public facilities systems for water, wastewater, roadway, drainage or parks, as applicable, by the exaction requirement. This information shall include any capacity supplied by prior exaction requirements imposed on the development;

- c. Comparison of the capacity of the applicable city public facilities systems to be consumed by the proposed subdivision or development with the capacity to be supplied to such systems by the proposed exaction requirement. In making this comparison, the impacts on the city's public facilities systems from the entire subdivision or development shall be considered;
 - d. The amount of any city participation in the costs of oversizing the public infrastructure improvements to be constructed by the applicant in accordance with the city's requirements;
 - e. Comparison of the minimum size and capacity required by city standards for the applicable public facilities systems to be utilized by the proposed subdivision or development with the size and capacity to be supplied by the proposed exaction requirement; and
 - f. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the exaction requirement imposed by the city.
- (6) The city engineer shall evaluate the appeal and supporting study and shall make a recommendation to the city council based upon the city engineer's analysis of the information contained in the study and utilizing the same factors considered by the engineer in making the original proportionality determination.
- (g) Council determination. The city council shall decide the appeal within 30 days of the date of final submission of any evidence by the applicant. Upon receipt of the final submission of evidence from the applicant, the city shall schedule a time and date for the city council to consider the appeal and shall cause the applicant to be notified at the address specified in the appeal form of the time, date and location at which the city council shall consider the appeal.
- (1) The applicant shall be allotted time, not to exceed 30 minutes, to present testimony at the city council meeting. The council shall base its decision on the criteria listed in sections 42-127(a) and 42-127(f)(5) and may:
 - a. Deny the appeal and impose the exaction requirement in accordance with the city engineer's recommendation or the planning and zoning commission's decision on the plat or other development application;
 - b. Grant the appeal, and waive in whole or in part an exaction requirement to the extent necessary to achieve proportionality; or
 - c. Grant the appeal, and direct that the city participate in the costs of acquiring land for or constructing the public infrastructure improvement.
 - (2) In deciding an appeal, the city council shall determine whether application of the exaction requirement is roughly proportional to the nature and extent of the impact created by the proposed subdivision on the city's public facilities systems for water, wastewater, roadway, drainage, or park facilities, as applicable, and reasonably benefits the subdivision. In making such determination, the council shall consider:
 - a. The evidence submitted by the applicant;
 - b. The city engineer's report and recommendation, considering in particular the factors identified in sections 42-127(a) and 42-127(f)(5); and
 - c. If the property is located within the city's extraterritorial jurisdiction, any recommendations from the county.
 - (3) The city council may require the applicant or the city engineer to submit additional information that it deems relevant in making its decision.
- (h) Action following decision of council.
- (1) If the city council finds in favor of the applicant and waives the exaction requirement as a condition of plat approval, or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant shall resubmit the plat application to the planning

and zoning commission or city official responsible for issuing the permit within 30 days of the date the city council takes action, with any modifications necessary to conform the plat with the city council's decision. The applicant shall not be deemed to have prevailed in the event that the city council modifies the exaction requirement.

- (2) If the city council finds in favor of an applicant for any other development related application or permit and waives the exaction requirement as a condition of permit approval, or modifies the exaction requirement to the extent necessary to achieve rough proportionality, the applicant shall resubmit the permit application to the responsible official within 30 days of the date the city council takes action, with any modifications necessary to conform the application with the city council's decision. Failure to do so will result in the expiration of any relief granted by the city council.
 - (3) If the city council denies the appeal and the applicant has executed a waiver of the statutory period for acting upon a plat, the city shall place the plat application on the agenda of the planning and zoning commission within 30 days of the city council's decision.
 - (4) If the rough proportionality appeal was submitted appealing the imposition of an exaction requirement for a plat application, and city council grants relief to an applicant but the applicant fails to conform the plat to the city council's decision within the 30-day period provided, the relief granted by the city council on the appeal shall expire and plat shall become null and void.
 - (5) If the plat application is modified to increase the number of residential dwelling units or the intensity of non-residential uses, the city manager or city engineer may require a new study to validate the relief granted by the city council.
 - (6) If the plat application for which relief was granted is denied on other grounds, a new appeal shall be required on any subsequent application.
- (i) Appeal of the city council decision. An applicant may appeal the decision of the city council to the county or district court of the county in which the development is located within 30 days of the date that the council issues its final decision. In the event that the applicant prevails in such action, the applicant will be entitled to attorneys' fees and costs, including expert witness fees.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Secs. 42-128—42-154. - Reserved.

ARTICLE V. - REQUIREMENTS FOR CONSTRUCTION AND ACCEPTANCE OF SUBDIVISIONS BY THE CITY

Sec. 42-155. - Withholding services and/or improvements until subdivision accepted.

The city hereby defines its policy to be that the city will withhold all city services and/or improvement of whatsoever nature, including the maintenance of streets, the furnishing of water and wastewater service from all additions until the subdivision is accepted by the city.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-156. - Guarantee of public improvements.

- (a) Before approving the final plat of a subdivision located all or partially within the city and/or the city's extraterritorial jurisdiction, the city council must be satisfied that all public improvements required will be constructed in accordance with the requirements of this chapter. The subdivider shall, unless the city council has determined otherwise, guarantee these public improvements will be constructed by executing a subdivider's public improvements agreement.

- (b) The city manager may approve a subdivider's public improvements agreement that complies with this section, which total project cost is less than \$25,000.00. The city manager may, at their discretion, require a security deposit for the improvements prior to executing the subdivider's public improvements agreement under this section. Additionally, the city manager or the subdivider may, for any reason, elect to present the subdivider's public improvements agreement and any security requirement to the city council for approval/disapproval; provided, however, that the subdivider's public improvements agreement must be placed on the city council agenda before the posting deadline. If a security deposit is required by the city manager for council consideration, the security deposit will be provided to the city manager 12 days prior to council action. The subdivider's public improvements agreement and security shall be in conformance with the provisions contained herein.
- (c) If the total project cost is estimated to be equal to or greater than \$25,000.00, the subdivider shall furnish the city with a performance and payment bonds executed by a surety company authorized to do business in the State of Texas in an amount equal to 100 percent of the construction contract price of installing the required public improvements. The bonds shall be subject to the approval of the city attorney and must be executed by a corporate surety in conformance with Texas law.
- (d) The subdivider shall furnish a maintenance bond executed by a surety company authorized to do business in the State of Texas in an amount of not less than 100 percent of the construction contract price of installing the required public improvements conditioned upon the maintenance of and the repairs to the construction under this contract for a period of two years from the date of acceptance of the project. The bond shall be subject to the approval of the city attorney and must be executed by a corporate surety in conformance with Texas law.
- (e) Prior to commencing the work, the subdivider shall furnish to the city proof of satisfactory carriage of insurance in accordance with the standard requirements of contractors doing work of the nature herein proposed.
- (f) The subdivider agrees to fully indemnify and save whole and harmless, the city and/or owners of the units and lots abutting the units in this contract, from all costs or damages arising out of any real or asserted claim or cause of action against it of whatsoever kind of character and in addition from any and all costs or damages arising out of any wrongs, injuries, demands or suits for damages, either real or asserted, claimed against it that may be occasioned by any act, omission, neglect or misconduct of the subdivider's contractor, his agents, servants, and employees. The subdivider's contractor shall further agree to comply with all applicable laws, regulations, ordinances, buildings and construction codes of the City of Justin and the State of Texas, and with any regulations for the protection of workers which may be promulgated by the government, and shall protect such work with all necessary lights, barriers, safeguards, and warnings as are provided for in said specifications and in the ordinances and regulations of said city.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-157. - Expiration of construction plan approval.

Approval of the final construction plans and specifications shall be deemed to have expired for subdivisions in which no assurances of completion have been received or improvements have been initiated within a two-year period of the approval of the subdivider's public improvements agreement.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-158. - Acceptance requirements.

The city shall inspect the installation of all required improvements to insure compliance with city requirements and the approved final construction plans. When all required improvements have been satisfactorily completed, the city shall either accept, in writing, the improvements as having been satisfactorily completed, or shall issue a punch list to the subdivider denoting items remaining to be

completed. The city shall not accept dedications of required improvements nor release a performance bond or other assurance, until such time as it is determined that:

- (a) All improvements have been satisfactorily completed; and
- (b) The approved "as built" plans (mylars) have been submitted to and accepted by the city; and
- (c) The required maintenance guarantee has been provided; and
- (d) Any and all other requirements identified in this chapter or other city codes and ordinances have been satisfied.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-159. - Issuance of building permits.

- (a) The city shall withhold the issuing of a building permit for any building in the city on a newly subdivided parcel of land until all the requirements of these subdivision regulations have been complied with, including installation and acceptance by the city of all water, wastewater, storm drainage, sidewalks and street improvements for the area designated, except as herein provided.
- (b) With the approval of the development review committee, the building official may release up to ten percent of the newly subdivided parcel or parcels of land for building permits, provided that all public improvements and utilities relating to said land are complete. Final certificates of occupancy or inspections shall not be issued until final acceptance of the subdivision and its improvements by the city.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Sec. 42-160. - Final acceptance—New subdivisions.

When the street, alley, storm drainage, water and wastewater improvements provided by the subdivider have been completely performed on the part of the contractor, the contractor shall notify the city that the improvements are ready for final inspection. The city will then make such final inspections, and if the work is satisfactory and in accordance with the approved final construction plans, and the specifications included therein, then the city will issue a letter of acceptance to the subdivider with a copy to the contractor. The public works director shall write the letter of acceptance. No certificate of occupancy shall be issued by the city nor shall any permanent utility services be granted to the site unless all final inspections have been completed, the "letter of acceptance" by the public works director has been written and any required maintenance bond has been filed with the city. The city may, at its sole discretion, disconnect any utility services until the requirements of this chapter have been met.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)

Secs. 42-161—42-184. - Reserved.

ARTICLE VI. - FILING FEES

Sec. 42-185. - Filing fees.

- (a) Fees and charges for the filing of preliminary plats, final plats, amending plats, minor plats, development plats and replats shall be as established by separate resolution of the city council from time to time.
- (b) Such fees and charges shall be imposed and collected on all preliminary plats, final plats, minor plats, development plats, amending plats and replats, regardless of the action taken by the city

planning and zoning commission and city council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative clerical and inspection services necessary to properly review and investigate plats. All required fees unless specifically stated otherwise herein, shall be paid as required in other sections of this chapter.

(Ord. No. 622-19, § 2(Exh. A), 1-14-2019)



PLANNING & ZONING COMMISSION
REGULAR MEETING MINUTES
TUESDAY, OCTOBER 20, 2020, 6:30 P.M.

JUSTIN CITY HALL
415 NORTH COLLEGE STREET
JUSTIN, TEXAS 76247

Members Present: (A telephonic meeting per Texas public health code restrictions)
Mike Loya, Kyle Suits, Lisa Dyer, James Hamilton, Bob Heygster, and Jeff Taylor

Members Absent: Davis Parsons

Staff Present:

Darrell W. Gentry, Sasha Torres, Chris Young and Eric Wilhite, AICP, Planning Consultant.

I. CALL TO ORDER:

Chair Loya announced on the 20th day of October 2020 at 6:31 pm that the Planning and Zoning Commission meeting was called to order. A quorum was determined by roll call of Commission to be present to conduct agenda business.

Invocation and Pledge of Allegiance lead by Commissioner Dyer.

II. PUBLIC COMMENT:

No Public Comments Received or given at the meeting. 6:33 pm

III. PUBLIC HEARINGS:

1. Conduct a public hearing to consider Specific Use Permit (SUP 20-01) for an outdoor storage yard in conjunction with an existing self-storage business located at 213 E. 7th Street in the LI-OT (Light Industrial-Old Town) Zoning District and hear any public comment.

Chair Loya opened the public hearing at 6:35pm and asked Director Gentry to provide a short presentation. Director gave a brief supplemental report to the Commission's written packet report. He spoke about the existing self-storage facility wanting to expand to provide an outdoor storage yard area for vehicles, RV's, boats and trailers per applicant no semi-tractor trailers will stored.

The applicant, Mr. Dale Roberson, spoke to Commission and expressed his hope that Commission approve the SUP as presented. He is in agreement with conditions. He spoke about using a secure entry gate from 7th Street only. The gate on Gulf Avenue is intended to be for emergency access only and will install a Knox box for Justin Fire Department's use. There were no other persons requesting to speak.

Chair Loya closed the public hearing at 6:59 pm.

Director answered additional Commission questions. There were no further questions or comments by Commissioners.

Chair Loya called for a motion on SUP 20-01.

Motion by Commissioner Suits to recommend that the City Council approve SUP 20-01 with conditions as shown in Exhibit A. Seconded by Commissioner Taylor.

Vote: **AYES --Unanimous NOES - 0 ABSENT – 1 Motion was approved.**

IV. DISCUSSION:

2. Chair Loya announced that now is the time to consider and make a recommendation for a comprehensive amendment to City Sign Ordinance, Chapter 36.

Chair requested Director to make a report regarding this item.

Director Gentry spoke about the past study sessions held by Commission on sign related issues and present ordinance. As a result, a comprehensive revision, Attachment #1, to the existing Sign Ordinance is proposed for City Council consideration and adoption.

The proposed Sign Ordinance addresses the issues raised by the courts in the Reed case as well as the potential outcome of the City of Austin case. This revised ordinance addresses content neutral and content based regulations; sets up clear enforcement actions; identifies allowable sign sizes, lettering portable signage; numbers of signs; maintains restrictions on new billboards and conversion of billboard signs, and lastly establishes clear review procedures not presently specified in the existing ordinance.

A legal review of draft comprehensive ordinance has been done by City Attorney. City Attorney comments are included in the attached Sign Ordinance revision in this report.

Chair Loya called for Commission questions of staff prior to any public comment being heard. Commissioner Heygster asked about the 5-year sign removal period in the ordinance. Director replied that 5-year was established based on amortizing original sign costs. 5-year was determined to be a reasonable amortization schedule for any affected, existing signage installed.

Commissioner Dyer asked a question about freestanding or monument signs being allowed in General Business-Old Town district. Director replied that Exhibit 1, page 16 of 38, specifies that freestanding or monument type signs would be allowed in Old Town.

Chair Loya asked if there were any other Commission questions. There were no more questions. Chair asked if anyone attending this teleconference meeting wished to address the Commission on this Item.

There were no persons wishing to speak on this Item. Chair asked if there was a motion to be made by the Commission.

Commissioner Dyer made a motion to recommend approval of the comprehensive revision to the City's Sign Ordinance, Chapter 36 as presented with the attached ordinance. Seconded by Commissioner Hamilton.

Vote: AYES—Unanimous, NOES – 0 and 1 absentee. Motion was approved.

Chair Loya announced that now was time to consider next Discussion Item of the Agenda.

3. Discuss and consider a comprehensive amendment to the City Off-Street Parking Ordinance, Chapter 52, Sections 52-233 to 52-269 and make a recommendation to the City Council.

Chair Loya asked Director to make a brief presentation. Director Gentry presented an overview of Commission's past study session on off-street parking regulations. He spoke about the proposed changes, in summary. He asked if there were any Commissioner questions.

Commissioner Heygster commented that the proposed parking ordinance amendment seemed to be a "smart approach to right sizing" off-street parking demand. Commission Chair Loya asked if it was not better to have too much parking. Director replied by comparing excessive commercial & industrial parking lots that typical use "cookie-cutter" formula for standardized spaces. He also spoke, in comparison about several Justin example of over and under parking that were done using a standardized "cookie cutter" approach.

Chair Loya asked if there were any other Commission questions. There were no more questions. Chair asked if anyone attending this teleconference meeting wished to address the Commission on this Item.

There were no persons wishing to speak on this Item. Chair asked if there was a motion to be made by the Commission.

Commissioner Heygster made a motion to recommend approval of the comprehensive revision to the City's Off-Street Parking Ordinance, Chapter 52 as presented. Seconded by Commissioner Dyer.

Vote: AYES—Unanimous, NOES – 0 and 1 absentee. Motion was approved.

Chair Loya announced that now was time to consider next Discussion Item of the Agenda.

4. Discuss and consider a study session regarding the City Noise Ordinance.

Chair Loya asked Director to make a brief presentation. Director Gentry presented a PowerPoint presentation related to noise impacts, legal rulings on “reasonableness” and oversensitivity by complaining parties. He indicated that there is no Commission action required for this study session item. He asked if there were any Commissioner questions or input to address in preparing an amendment to existing noise ordinance.

Police Chief Coss spoke to Commission about the type of complaints commonly made and enforced. He did not offer any suggestions since the Police Department would be involved in actual enforcement cases. He did offer that he had read a copy of the draft ordinance and changes and believed the changes would achieve the stated goals outlined by Director Gentry.

V. CONSENT:

5. Approve minutes of September 15, 2020 Planning & Zoning Commission meeting.

Chair Loya announced that now is the time to consider the Consent Agenda Item. He asked if there was a motion to approve or disapprove the Consent item.

Commissioner Suits made a Motion to approve the Consent Item as presented. Commissioner Hamilton seconded the Motion. Motion was approved unanimous AYE vote with 1 vacancy.

FUTURE AGENDA ITEMS:

6. Chair reviewed the Future Agenda Items as listed and asked if the Commissioners had any changes or additions. There were no additions or changes.

ADJOURNMENT:

Chair Loya called for a motion to adjourn. Motion to adjourn was made by Commissioner Suits. Motion was seconded by Commissioner Hamilton. Motion was approved unanimously.

Chair Loya adjourned meeting at 8:24 pm.

Passed and Approved on the 24th day of November 2020 by Commission vote.

Darrell W. Gentry, Director
Planning & Development Services Department