Chapter 26

SUBDIVISIONS AND OTHER PROPERTY DEVELOPMENTS[*]

ARTICLE I. IN GENERAL

Sec. 26-1. Short title.

The following regulations are hereby adopted and shall be known and may be cited as "City of Killeen Subdivision and Property Development Regulations." (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-2. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

Accessory structure or building shall mean a subordinate structure or building customarily incident to and located on the same lot occupied by the main structure or building.

Applicant shall mean the owner(s) of the property to be developed.

Bond shall mean any form of security, including a cash deposit, surety bond, or instrument of credit in an amount and form approved by the city.

Building shall mean any structure designed or built for the support, enclosure, shelter or

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[*] **Editor's note**–Ordinance No. 95-38, § I, adopted April 25, 1995, amended Ch. 26 to read as set out herein. Prior to such amendment, Ch. 26 consisted of §§ 26-1–26-6, 26-41–26-43, 26-56–26-60, 26-71–26-76, 26-86–26-91, 26-111, 26-131–26-133, 26-146–26-152m and 26-166–26-182, which contained similar provisions and derived from Ch. 9, Art. 1 of the 1963 Code; Ord. No. 88-79, adopted Aug. 9, 1988; Ord. No. 91-67, adopted Nov. 12, 1991; Ord. No. 92-17, adopted April 28, 1992; Ord. No. 93-8, adopted Jan. 26, 1993; and Ord. No. 93-28, adopted April 27, 1993.

Cross references–Building and construction regulations, Ch. 8; flood damage prevention, Ch. 12; mobile homes, mobile home parks, etc., Ch. 17; planning and development, Ch. 21; zoning, Ch. 31.

State law reference–Municipal regulation of subdivisions and property development, V.T.C.A., Local Government Code § 212.001 et seq.

protection of persons, animals, chattel or property of any kind.

City standards shall mean those standards and specifications, together with all tables, charts, graphs, drawings and other attachments hereinafter approved and adopted by the city council, which may be amended from time to time, and are administered by the city staff for the construction and installation of streets, sidewalks, drainage facilities, water and sanitary sewer mains and any other public facilities. All such facilities which are to become the property of the city upon completion must be constructed in conformance with these standards.

Commission shall mean the duly organized body appointed by the city council as the planning and zoning commission.

Construction plans shall mean the maps, drawings and technical specifications, including bid documents and contract conditions, where applicable, which provide a graphic and written description of the character and scope of the work to be performed prepared for approval by the city for construction.

Cross drainage shall mean a defined waterway course, approximately perpendicular to the proposed roadway, which requires the construction of a bridge, pipes or box culvert, or other structure to conduct drainage under the roadway.

Developer shall mean any person, corporation, governmental or other legal entity engaged in the development of property by improving a tract or parcel of land for any use. The term "developer" is intended to include the term "subdivider."

Development shall mean the construction of one (1) or more new buildings or structures, or the structural alteration, relocation or enlargement of one (1) or more new buildings or structures of an existing building or structure on one (1) or more building lots or sites, or the installation of site improvements.

Development review committee shall mean a committee consisting of members of the plat review committee, the local utility companies, and the plat applicant and/or his or her designated agent.

Easement shall mean a grant by a property owner to the public, a corporation, or persons for a general or specific use of a defined strip or parcel of land, for such purpose as the installation, construction, maintenance and/or repair of utility lines, drainage ditches or channels, or other public services, the ownership or title to the land encompassed by the easement being retained by the owner of the property.

Engineer shall mean any person duly authorized under the Texas Engineering Practice Act (V.A.C.S. art. 3271a), as amended, to practice the profession of engineering.

Engineering plans shall mean the maps and drawings required for plat approval.

Extraterritorial jurisdiction shall mean that unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in V.T.C.A., Local Government Code, section 42.001 et seq.

Land disturbing activity shall mean any change in land made or caused by human activity that may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or increased runoff of storm water including but not limited to, grading, excavating, transporting, or filling of land.

Lacustrine shall mean pertaining to, formed in, growing in, or inhabiting lakes.

Lot shall mean an undivided tract or parcel of land having access to a street, which is designated as a separate and distinct tract or lot number or symbol on a duly approved plat filed of record. The terms “lot” and “tract” shall be used interchangeably.

Master plan shall mean the comprehensive plan of the city adopted by the city council.

Notice of Intent (NOI) see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

Off-site shall mean any premises not located within the property to be developed, regardless of ownership.

Owner shall mean any persons, firm or corporation having legal title to the property.

Plat shall mean a map representing a tract of land showing the boundaries of individual properties and streets or a map, drawing, chart, or plan showing the layout of a proposed subdivision into lots, blocks, streets, parks, school sites, commercial or industrial sites, drainageways, easements, alleys, which an applicant submits for approval and a copy of which he intends to record with the county clerk of Bell County.

Plat, final, shall mean the map or plan of a proposed development submitted for approval by the planning and zoning commission and city council, where required, prepared in accordance with the provisions of this chapter and requested to be filed with the county clerk of Bell County.

Plat, preliminary, shall mean the initial map or plan of a proposed development showing the general layout of streets, blocks and lots, utility systems, and drainage systems.

Plat review committee shall mean a committee consisting of city staff members which shall review all plats submitted to the city for consideration for compliance with the city’s standards, policies, resolutions, codes and ordinances.

Right-of-way shall mean a strip of land acquired by dedication, prescription or condemnation and intended to be occupied by a road, sidewalk, railroad, electric transmission facility, oil or gas pipeline, water mains, sewer mains, storm drainage or other similar facility. Rights-of-way intended for streets, sidewalks, water mains, sewer mains, storm drainage, or any other use involving maintenance by a public agency shall be dedicated to the public use by the plat applicant either by easement or in fee simple title.

Storm Water Pollution Prevention Plan (SWPPP) see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

Streets and alleys shall mean a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, alley, place, or however otherwise designated. City streets shall conform to the following classifications:

(1) Arterial streets and highways are those which are used primarily for higher speed and higher volume traffic. Routes for such streets shall provide for cross-town circulation and through-town movements.
(2) Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance, circulation streets of a residential development and streets for circulations within such a development of a residential subdivision.
(3) Minor streets are those which are used primarily for access to abutting properties.
(4) Marginal access streets are minor streets located parallel to and adjacent to arterial streets and highways, providing access to abutting properties and protection from the traffic of the thoroughfares.
(5) Alleys are minor ways used primarily for access to abutting properties for vehicle service usually to the back or side of a property.

Structural alterations shall mean the installation or assembly of any new structural components, or any change to existing structural components, in a system, building or structure.

Structure shall mean anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types and ground signs, but exclusive of customary fences or boundary or retaining walls.

Subdivision shall mean dividing a tract in two (2) or more parts for the purpose of creating lots, including an addition to the city, to lay out suburban, building or other lots or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to the public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts. “Subdivision” refers to any division irrespective of whether the actual division is made by metes and bounds description in a deed of conveyance or a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A subdivision does not include a division of land into parts greater than five (5) acres, where each part has access and no public improvement is being dedicated.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 05-127, § II, 12-20-05; Ord. No. 07-045, § II, 5-22-07; Ord. No. 07-069, § I, 8-14-07)

Sec. 26-3. Purpose.

The purpose of this chapter is to set forth the procedures and standards for development of property, layout and design of subdivisions or real property within the corporate limits of the city and its extraterritorial jurisdiction which are intended to promote the health, safety and general welfare of the city and the safe, orderly, and healthful development of the city. (Ord. No. 95-38, § I, 4-25-95; Ord. No. 07-045, § III, 5-22-07)

Sec. 26-4. Enforcement; penalty.

(a) Unless otherwise stated, violations of this chapter shall be punishable under the provisions of section 1-8 of the city code of ordinances and/or as provided in paragraphs (b)

through (g) below.

(b) If it appears that a violation or threat of a violation of this subchapter or plan, rule, or ordinance adopted under this subchapter consistent with this subchapter exists, the municipality is entitled to appropriate injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

(c) A suit for injunctive relief may be brought in the county in which the defendant resides, the county in which the violation or threat of violation occurs, or any county in which the municipality is wholly or partly located.

(d) In a suit to enjoin a violation or threat of a violation of this subchapter or a plan, rule, ordinance, or other order adopted under this subchapter, the court may grant the municipality any prohibitory or mandatory injunction warranted by the facts including a temporary restraining order, temporary injunction, or permanent injunction.

(e) A person commits an offense if the person violates this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter within the limits of the municipality. An offense under this subchapter is a Class C misdemeanor. Each calendar day the violation continues constitutes a separate offense.

(f) A suit under this section shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(g) It is no defense to a criminal or civil suit under this section that an agency of government other than the municipality issued a license or permit authorizing the construction, repair, or alteration of any building, structure, or improvement. It also is no defense that the defendant had no knowledge of this subchapter or of an applicable plan or rule. Reference L.G.C. § 212.050 (a) (f).
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 07-045, § IV, 5-22-07)

Sec. 26-5. Compliance required.

(a) The owner of a lot or tract of land located within the corporate limits of the city or the extraterritorial jurisdiction of the city who divides the lot or tract in two (2) or more parts for sale or to lay out a subdivision of the tract, including an addition to the city, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the lot or tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts shall have a plat of the lot or tract of land or subdivision prepared and approved in accordance with this chapter and recorded with the county clerk of Bell County. A division of a lot or tract under this code includes a division regardless of whether it is made using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this code does not include a division of land into parts greater than five (5) acres within the corporate limits of the city, or greater than ten (10) acres in the extraterritorial jurisdiction, where each part has access to and no public improvement is being dedicated.

(b) Notwithstanding paragraph (a) above, a plat shall not be required where the development

of the lot or tract of land is for the sole purpose of performing alteration(s) or improvements to an existing single-family residence or the auxiliary uses thereto. All such alterations or improvements must be permitted in compliance with all applicable codes and ordinances of the city.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 07-045, § V, 5-22-07)

State law reference(s)--Authority to regulate extraterritorial jurisdiction, V.T.C.A., Local Government Code § 212.003.

Sec. 26-6. Adoption of local government code regulation for development plats.

The city of Killeen hereby adopts and approves Texas Local Government Code, chapter 212, subchapter B, and the law codified by that subchapter, as such may be amended from time to time. (Ord. No. 04-59, § I, 7-27-04)

Sec. 26-7. Application of other regulations.

The provisions of this chapter and Texas Local Government Code, chapter 212, subchapter A, apply to development plats, to the extent that they do not conflict with sections 26-6 through 26-13 of the Killeen code of ordinances. (Ord. No. 04-59, § I, 7-27-04)

Sec. 26-8. Plans, rules, and ordinances.

After a public hearing on the matter, the city council may from time to time adopt general plans, rules, or ordinances governing development plats of land within the limits and in the extraterritorial jurisdiction of the municipality to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality. (Ord. No. 04-59, § I, 7-27-04)

Sec. 26-9. Development plat required.

(a) Any person who proposes the development of a tract of land located within the limits of the city must have a development plat of the tract prepared in accordance with this subchapter and the applicable plans, rules, or ordinances of the municipality.

(b) The development plat must be prepared by a registered professional land surveyor as a boundary survey showing:

(1) Each existing or proposed building, structure, or improvement or proposed modification of the external configuration of the building, structure, or improvements involving a change of the building, structure, or improvement.
(2) Each easement and right-of-way within or abutting the boundary of the surveyed property.
(3) The dimensions of each street, sidewalk, alley, square, park, or other part of the property intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park, or other part.

(c) New development may not begin on the property until the development plat is filed with and approved in accordance with this chapter.

(d) If a person is required under this chapter, as amended, to file a subdivision plat, a development plat is not required in addition to the subdivision plat.
(Ord. No. 04-59, § I, 7-27-04)

Sec. 26-10. Restriction on issuance of permits.

The municipality, a county or an official of another governmental entity may not issue a building permit or any other type of permit for development on lots or tracts subject to this subchapter until a development plat is filed with and approved in accordance with this chapter and section 212.047 Local Government Code. (Ord. No. 04-59, § I, 7-27-04)

Sec. 26-11. Approval of development plat.

(a) Development plats shall be submitted to the planning commission and the city council in accordance with procedures established by this chapter.

(b) The development plat shall be approved if the plat conforms to:

(1) The general plans, rules, and ordinances of the municipality concerning its current and further streets, sidewalks, alleys, parks, playgrounds, and public utility facilities.
(2) The general plans, rules, and ordinances for the extension of the municipality or the extension, improvement, or widening of its roads, streets, and public highways within the municipality taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.
(3) Any general plans, rules, or ordinances adopted under this chapter.

(Ord. No. 04-59, § I, 7-27-04)

Sec. 26-12. Effect of approval or dedication.

The approval of a development plat is not considered an acceptance of any proposed dedication for public use or use by persons other than the owner of the property covered by the plat and does not impose on the municipality any duty regarding the maintenance or improvement of any purportedly dedicated parts until the municipality's governing body makes an actual appropriation of the dedicated parts by formal acceptance, entry, use, or improvement. (Ord. No. 04-59, § I, 7-27-04)

Sec. 26.13. Enforcement; penalty.

(a) If it appears that a violation or threat of a violation of this subchapter or plan, rule, or ordinance adopted under this subchapter consistent with this subchapter exists, the municipality is entitled to appropriate injunctive relief against the person who committed, is committing, or is threatening to commit the violation.

(b) A suit for injunctive relief may be brought in the county in which the defendant resides, the county in which the violation or threat of violation occurs, or any county in which the municipality is wholly or partly located.

(c) In a suit to enjoin a violation or threat of a violation of this subchapter or a plan, rule, ordinance, or other order adopted under this subchapter, the court may grant the municipality any

prohibitory or mandatory injunction warranted by the facts including a temporary restraining order, temporary injunction, or permanent injunction.

(d) A person commits an offense if the person violates this subchapter or a plan, rule, or ordinance adopted under this subchapter or consistent with this subchapter within the limits of the municipality. An offense under this subsection is a Class C misdemeanor. Each day the violation continues constitutes a separate offense.

(e) A suit under this section shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(f) It is no defense to a criminal or civil suit under this section that an agency of government other than the municipality issued a license or permit authorizing the construction, repair, or alteration of any building, structure, or improvement. It also is no defense that the defendant had no knowledge of this subchapter or of an applicable plan or rule.
(Ord. No. 04-59, § I, 7-27-04)

Secs. 26-14--26-20. Reserved.

ARTICLE II. PLATS[*]

DIVISION 1. GENERALLY

Sec. 26-21. Fees.

The applicant for approval of a preliminary plat, final plat, replat, amended plat, minor plat or modified final plat shall, upon submission of the plat application and all required documentation, pay a nonreturnable fee, as established by the city council, for the review and processing of the plat application. Upon approval of the final plat, replat, amended plat or final minor plat, the applicant shall pay an additional recording fee established by the county for recording the plat with the county clerk. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-22. Schedule.

The planning and zoning commission, at its first regular meeting in December of each year, shall adopt a schedule for the next calendar year establishing dates for filing plat applications and meetings of the plat review committee and development review committee based upon the established schedule of regular meetings of the planning and zoning commission and city council. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-23. Process for approval.

(a) The planning department shall convene a meeting of the plat review committee for review of the plat. The plat review committee shall assure conformance with the city's standards, policies, resolutions, codes and ordinances.

(b) The plat review committee shall document its comments in writing and forward their report to the plat applicant and/or his or her designated agent for corrective action. The applicant

[*] **State law reference**–Plat approval, V.T.C.A., Local Government Code § 212.005 et seq.

shall assure that there is no outstanding debt owed the city required by this chapter on a previous plat(s) submitted by the applicant. Failure to pay the debt prior to the plat's submission to the planning and zoning commission and/or city council shall result in the planning and zoning commission and city council's disapproval of the plat.

(c) A meeting of the development review committee, consisting of members of the plat review committee and the local utility companies, shall be convened to discuss requirements to meet their needs. The plat applicant and/or his or her designated agent shall be required to attend as part of the application process. Failure to attend shall result in the plat being rescheduled for the next development review committee meeting. The development review committee shall document its comments in writing and forward its report to the plat applicant and/or his or her designated agent for corrective action.

(d) When the applicant has completed all corrective actions, the plat will be forwarded to the planning department for continued processing. Plats submitted on or before the scheduled plat correction submission date, will be forwarded to the staff plat correction validation meeting. When plat corrections are validated, the plat application process shall be considered complete. The date of the staff plat correction validation meeting in which the plat corrections are validated, shall be designated to be the date the plat is filed with the city of Killeen. Plats validated in the staff plat correction validation meeting will be scheduled for the next regular meeting of the planning and zoning commission. If the plat applicants do not agree with a requested correction comment, they may state their objection in writing, and the plat will be considered filed and passed to the planning and zoning commission for action.

(e) If the plat is approved by the planning and zoning commission, the plat shall be scheduled for consideration at the next regular meeting of the city council, except for plats meeting the requirements of division 4.

(f) If the plat is disapproved by either the planning and zoning commission or the city council, the applicant may correct the items of concern and resubmit the plat for approval one (1) time within six (6) months without paying any additional fees. If the plat is disapproved a second time or if a second request is not received within six (6) months of the first disapproval, the applicant will be required to repeat the plat application process from the beginning and pay all standard application fees.

(g) An applicant may withdraw his plat application from consideration at any time during the application process by filing a written notice of withdrawal with the planning department. Upon filing the notice to withdraw, the planning department shall discontinue processing the plat application. The applicant must file a written request to proceed with further consideration of the plat within six (6) months of withdrawal and the planning department shall continue the application process. If the request to proceed with further consideration of the plat is filed more than six (6) months after filing the notice of withdrawal, the applicant shall be required to repeat the plat application process from the beginning and pay the standard application fees.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 04-59, § II, 7-27-04)

Sec. 26-24. Requirements for approval of application by planning and zoning commission.

(a) Within thirty (30) days of the date that the application is deemed administratively complete, the planning and zoning commission shall approve a plat if it complies with the

requirements of this chapter, the applicant is not in arrears in the payment of any debts owed the city required by this chapter on a previous plat, it conforms to the general plan of the city and its current and future streets, alleys, parks, playgrounds, and public utility facilities plans, and it conforms to the city's general plan for the extension of roads, streets, and public highways, taking into account access to and extension of sewer and water mains and instrumentalities of public utilities.

(b) A plat is considered approved by the planning and zoning commission unless it is disapproved within such thirty-day period.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-25. Requirements for approval of application by city council.

(a) Within thirty (30) days of the date that the plat is approved by the planning and zoning commission or is deemed approved by the inaction of the planning and zoning commission (except in the case of plats meeting the requirements of division 4), the city council shall approve the plat if it complies with the requirements of this chapter, the applicant is not in arrears in the payment of any debts owed the city required by this chapter on a previous plat, it conforms to the general plan of the city and its current and future streets, alleys, parks, playgrounds, and public utility facilities plans, and it conforms to the city’s general plan for the extension of roads, streets, and public highways, taking into account access to and extension of sewer and water mains and instrumentalities of public utilities.

(b) A plat is considered approved by the city council unless it is disapproved within such thirty-day period.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-26. Recordation.

(a) Preliminary plats are not recorded with the county clerk.

(b) All plats pertaining to platted property located in the extraterritorial jurisdiction of the city shall only be recorded after approval by the city council and the commissioners’ court of the county and the applicant’s submission of the required recording fee.

(c) All plats meeting the criteria of division 4 shall be recorded with the county clerk upon the planning and zoning commission’s approval of the plat and the applicant’s submission of the required recording fee.

(d) All other plats shall be recorded with the county clerk upon the city council’s approval of the plat and the applicant’s submission of the required recording fee.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-27. Conflicts affecting property located in the extraterritorial jurisdiction.

In cases where platted property is located in the extraterritorial jurisdiction of the city and conflicts exist between a city requirement and a county requirement, the more stringent shall control. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-28. Approval of preliminary plats.

Approval of a preliminary plat shall be deemed to be an expression of approval to the layout submitted as a guide to the preparation of the final plat and shall not constitute approval of a final plat. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-29. Avigation notations.

The planning and zoning commission and the city council shall require the execution of an avigation notation as a condition precedent to plat approval relating to any property or structure located within areas designated as being within the runway protection zone on the latest FAA (Federal Aviation Administration) approved airport layout plan for any airport within the city of Killeen, or any municipal or military airport adjacent to the city of Killeen which have runway protection zones that extend over any part of the city. An avigation release shall be included on any plat located within this area and shall have the following effect:

(a) Grant for the use and benefit of the public for continuing easement and right-of-flight for the passage of aircraft in the airspace above the surface of the land over which the easement is obtained, together with the right to cause, in said airspace, such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the airspace using said airspace for landing at, taking off from or operation on any municipal or military airport; and
(b) Will limit the height of any structure, tree or item of equipment to no more than the approach surface height for that location as specified in 14 CFR Part 77.25(d) (civil airport) or 14 CFR Part 77.28(a)(3) (military airport) as applicable.
(c) In addition to the height restrictions, an appropriate annotation will be made on plats of any land that lie within a 65 Ldn or greater noise contour as identified by the latest FAA approved airport master plan, utilizing the worst case noise contour map of either current or future contours for the applicable airport. In addition, the following avigation release format will be used:

AVIGATION RELEASE

STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF BELL §

WHEREAS, (Owner's Name)**,** hereinafter called **OWNER** (whether one or more), is the owner of a certain parcel of land situated in the City of Killeen, Bell County, Texas, being more particularly described as (Subdivision Name), an addition to the City of Killeen, Bell County, Texas.

OWNER does herby waive, release, remise, quit claim and forever hold harmless the City of Killeen, Texas a municipal corporation, hereinafter called **CITY**, from any and all claims for damages of any kind that OWNER may now have or may hereinafter have in the future by reason of the passage of all aircraft (aircraft being defined for the purpose of this designed for navigation of or flight in the air) by whomsoever owned and operated, in the air space above OWNER'S property. Such release shall include, but not be limited to, any damages to OWNER'S described property, such as noise, vibration, fumes, dust, fuel, and lubricant particles, and all other effects that may be caused by the operation of aircraft landing at or taking off from,

or operating at any municipal or military airport within or adjacent to the CITY, whether such claim be for injury or death to person or persons or damages to or taking of property; and OWNER does herby fully remiss, and release any right or cause of action which it may now have or which it may in the future have against the CITY, whether such claims be for injury to person or damage to property due to noise, vibration, fumes, dust, fuel and lubricant particles, and all the other effects that may be caused or may have been caused by the operation and/or maintenance of aircraft or aircraft engine at or on said airports.

It is agreed that this Release shall be binding upon OWNER, his successors, heirs, executors, administrators and assigns, in interest with in __(subdivision name)_____, an addition to the City of Killeen, Texas, and it is further agreed that this instrument shall be a covenant running with the land, and shall be recorded in the Deed records of Bell County, Texas.

Executed this _____ day of _____, A.D., ___.

_____

(Owner)

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 04-59, § III, 7-27-04)

Secs. 26-30--26-40. Reserved.

DIVISION 2. PRELIMINARY PLATS

Sec. 26-41. Form, contents and required documentation.

(a) Preliminary plats are optional. The plat applicant may elect to proceed to the final platting requirements in division 3 without filing a preliminary plat.

(b) Preliminary plats shall be filed with the planning department. The planning department shall stamp the following notice on the face of each preliminary plat: “Preliminary plat for inspection purposes only and in no way official or approved for record purposes and not approved for construction.”

(c) In the event a preliminary plat application is filed with the planning department, it shall be accompanied by the following minimum documentation:

(1) Completed preliminary plat application;
(2) Eleven (11) copies of the plat;
(3) Two (2) copies of engineering plans;
(4) Deed showing current ownership of the platted property;
(5) Tax certificates showing property owner is not in arrears in payment of taxes; and
(6) Nonrefundable application fee, as established by the city council.

(d) Preliminary plats must meet the following criteria and contain the following information:

(1) Scaled drawing no smaller than 1" = 200' on a sheet size no greater than twenty-four (24) inches by thirty-six (36) inches (multiple sheets may be submitted; however, each sheet must be registered and match lines to allow assembly of the multiple sheets);

(2) Boundary of the subject tract;
(3) All existing and/or proposed streets and alleys with street names, widths and relation to surrounding existing street patterns;
(4) Approximate width and depth of all proposed lots;
(5) Layout, in dotted lines, of all adjacent lots to the property being platted showing lot size, lot and block numbers, name of existing subdivision or property owner if undeveloped property;
(6) FEMA designated 100-year floodplain boundary, if applicable;
(7) Date, scale, north point, and small scale location map;
(8) Name and address of all property owners of the property being platted;
(9) Name and address of engineer and surveyor; and
(10) Signed statement of the engineer and/or surveyor who prepared the preliminary plat indicating the records or survey from which the property description of the boundary of the proposed plat was developed.

(e) The engineering plans shall be in compliance with the current adopted construction standards of the city and shall consist of the following:

(1) Layout of all needed off-site utilities;
(2) Water system layout, including size of line and fire hydrant location;
(3) Sewer system layout, including size of line, location of manholes and cleanouts;
(4) Drainage plan which shows the overall analysis of the change of existing condition to fully developed condition and identify approximate location where water will exit the subdivision; and
(5) As-built drawings of existing structures, if applicable.

(Ord. No. 95-38, § I, 4-25-95)

Secs. 26-42--26-50. Reserved.

DIVISION 3. FINAL PLATS

Sec. 26-51. Form, contents, and required documentation.

(a) Final plats are mandatory in accordance with section 26-5.

(b) In cases where a preliminary plat was previously approved, the final plat shall substantially conform to the approved preliminary plat; however, the final plat, at the option of the applicant, may constitute only that portion of the approved preliminary plat that the applicant proposes to develop and record at that time.

(c) Final plats shall be filed with the planning department and shall be accompanied by the following minimum documentation:

(1) Completed final plat application signed by the property owner or in the case of a corporation/partnership, a party empowered to sign such actions (supported with authorizing documentation);
(2) Eleven (11) copies of the plat;
(3) Four (4) copies of engineering plans;
(4) Deed showing current ownership of the platted property;

(5) Tax certificates showing property owner is not in arrears in payment of taxes;
(6) A statement on the plat application showing that all fees owed the city on any prior projects has been paid in full at the time the application was filed;
(7) Nonrefundable application fee, as established by the city council; and
(8) Preliminary Access/Drainage Letter granted by the Texas Department of Transportation for any plat with frontage on state managed rights of way identifying TxDOT's preliminary determination of access points and any drainage concerns that TxDOT desires to call to the city's attention.

(d) Final plats must meet the following criteria and contain the following information:

(1) Scaled drawing no smaller than 1" = 100'. If a scale other than 1" = 100' is used for the plat, a 1"= 100' inset will be included on the plat. Sheet size shall be no greater than twenty-four (24) inches by thirty-six (36) inches (multiple sheets may be submitted; however, each sheet must be registered and match lines to allow assembly of the multiple sheets and an index sheet shall be drawn on a sheet twenty-four (24) inches by thirty-six (36) inches showing the entire property being platted, date, scale, northpoint and a small scale location map);
(2) The shape and the exterior boundaries of the property being platted shall be indicated by the use of a distinctive line weight and individual symbol;
(3) The length of all-straight lines, deflection angles, radii, arcs, and central angles of all curves shall be given along the property lines of each street or tabulated on the same sheet showing all curve data with its symbol. All dimensions along the lines of each lot with the angles of intersections that they make with each other shall be indicated;
(4) The names of all adjoining subdivisions, the side lines of abutting lots, lot and block numbers, all in dotted lines, and accurate reference ties to at least two (2) adjacent, existing controlling property monuments shall be clearly indicated;
(5) The description and location of all survey monuments placed on the property being platted shall be indicated;
(6) A title shall be indicated, including the name of the property being platted, the name of the applicant and scale and location of the property being platted with reference to original surveys and a north point which may be magnetic or true north, with notation stating which.
(7) All FEMA-designated flood hazards shall be indicated. These shall include, the floodway boundary, 100-year floodplain limits, base flood elevation (BFE) contours, flood zone designations, and all other essential flood insurance study data. The panel number, effective date, and map number of each referenced National Flood Insurance Program (NFIP) map shall be cited. Where required, the lowest finish floor elevation (FFE) shall be determined for each affected lot. The BFE and FFE for each lot shall be summarized in a table. All NFIP map changes or map revision data submitted to FEMA shall be indicated in like manner;
(8) Avigation notation, if required;
(9) A surveyor's certificate shall be placed on the final plat:

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 were properly placed under my personal supervision, in accordance with the Subdivision

and Property Development Regulations of the City of Killeen, Texas.

_____
Signature

_____
Texas Reg. No.

(10) A certificate of ownership and of dedication of all streets, alleys, easements and lands to public use forever, signed and acknowledged before a notary public by the owner of the land, shall appear on the face of the map, containing complete and accurate description of the property being platted and the streets dedicated;

(11) A certificate of approval by the planning and zoning commission shall be placed on the plat.

Approved this _____ day of _____, _____, by the Planning and Zoning Commission of the City of Killeen, Texas.

_____
Chairman, Planning and Zoning Commission

_____
Secretary, Planning and Zoning Commission

(12) The applicant will furnish the city a copy of the dedication at the same time the final plat is submitted for approval; and

(13) A certificate of approval by the city council shall be placed on the plat:

Approved this _____ day of _____, _____, by the City Council of the City of Killeen, Texas.

_____
Mayor

_____
City Secretary

(e) The engineering plans shall be in compliance with the current adopted construction standards of the city and shall consist of the following:

(1) Street layout and grades;
(2) Water system layout, including size of line and fire hydrant location;
(3) Sewer system layout, including size and grade of lines, location of manholes and cleanouts, and lift station design;
(4) All drainage structure designs, analysis of as-is and full development for where the water exits the subdivision, analysis of all streets to determine if they meet drainage criteria, FEMA floodplain and floodway boundaries (if applicable), and letter(s) of release from property owners affected by diversion of water (except for watercourse(s) designated on current city topography maps); and
(5) As-built drawings of existing structures, if applicable.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 05-25, § I, 3-22-05)

Secs. 26-52--26-60. Reserved.

DIVISION 4. MINOR PLATS

Sec. 26-61. Conditions for approval.

(a) The planning and zoning commission is hereby authorized to approve a minor plat, without subsequent approval by the city council, when the property proposed to be platted or replatted is as follows:

(1) Two (2) acres or less;
(2) Consists of five (5) lots or less;
(3) Street construction is not required; and
(4) An agreement between the city and the plat applicant is not required.

(b) All other requirements of this chapter shall apply, except that subsequent approval by the city council shall not be required prior to recording the minor plat with the county clerk.
(Ord. No. 95-38, § I, 4-25-95)

Secs. 26-62--26-70. Reserved.

DIVISION 5. VACATION OF PLATS, REPLATS AND AMENDMENT OF PLATS*

Sec. 26-71. Vacation of plats.

(a) Any plat, replat or amended plat previously recorded with the county clerk may be vacated by the property owner(s) at any time prior to the sale of any lot therein by filing a written signed and acknowledged instrument declaring the same to be vacated and recorded with the county clerk.

(b) If the one (1) or more lots have been sold, the plat, replat or amended plat may be vacated by the property owners by filing a written signed and acknowledged instrument with the planning department. The vacating instrument must be approved by the planning and zoning commission and/or the city council in the same manner as the original plat, replat or amended plat. The planning and zoning commission and/or the city council shall disapprove the vacating instrument which abridges or destroys public rights in any of its public uses, improvements, streets, or alleys. Upon approval by the planning and zoning commission and/or city council, the vacating instrument may be recorded with the county clerk and the vacated plat, replat or amended plat shall have no effect.
(Ord. No. 95-38, § I, 4-25-95)

State law reference(s)--Vacating plats, V.T.C.A., Local Government Code § 212.013.

Sec. 26-72. Replats without vacating preceding plat.

A replat may be recorded and controls over a previously recorded plat without vacation of that plat if the replat is signed and acknowledged by the owners of the property being platted, does not attempt to amend or remove any covenants or restrictions, and is approved, after a public hearing on the matter, by the planning and zoning commission and/or city council. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-73. Additional requirements for certain replats.

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* **State law reference**–Vacating plats, amending plats, etc., V.T.C.A. Local Government Code § 212.013 et seq.

(a) In addition to compliance with section 26-72, a replat without vacation of the preceding plat must conform to the requirements of this section if:

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

(2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

(b) Notice of the public hearing required under section 26-72 shall be given before the fifteenth day before the date of the public hearing by publication in the newspaper and by written notice, with a copy of section 26-73(c) attached, to the owners of any lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted, as indicated on the most recently approved tax rolls.

(c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths (3/4) of the members present at the meeting of the planning and zoning commission and/or city council. For a legal protest, written instruments signed by at least twenty (20) percent of the owners of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200) feet from that area, but within the original subdivision, must be filed with the planning and zoning commission and/or city council prior to the close of the public hearing.

(d) In computing the percentage of land area under subsection (c), the area of streets and alleys shall be included.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-74. Plat amendments or corrections.

(a) The planning and zoning commission and/or city council may approve and issue an amended plat, which may be recorded with the county clerk and controls over the preceding plat without vacation of the plat, if the amended plat is signed by the applicant(s) and is solely for one (1) or more of the following purposes:

(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 the description of the real property shown on the preceding plat;
(4) To indicate monuments set forth after death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
(5) To show the proper location or character of any monument which has been changed in location or character or which originally was shown incorrectly as to location or character on the preceding plat;
(6) To correct any other type of scrivener’s or clerical error or omission previously approved by the planning and zoning commission and/or city council, 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 (2) adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished; provided, that such amendment does not attempt to remove recorded

covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

(8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement;

(9) To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner(s) of all such lots join in the application for the plat amendment; provided, that such amendment does not attempt to remove recorded covenants or restrictions and does not increase the number of lots; or

(10) To make necessary changes to the preceding plat to create six (6) or fewer lots in the plat if the changes do not affect applicable zoning and other regulations of the city, and the changes do not attempt to amend or remove any covenants or restrictions and the area covered by the changes is located in an area that the planning and zoning commission and/or the city council has approved, after a public hearing, as a residential improvement area.

(11) To replat one or more lots fronting on an existing street if the owners of all those lots join in the application for the amendment; the amendment does not attempt to remove recorded covenants or restrictions or increase the number of lots; and, the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(b) Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amended plat.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 96-43, § 1, 5-14-96)

Secs. 26-75--26-79. Reserved.

ARTICLE III. DEVELOPMENT PROCESS

Sec. 26-80. Land disturbance permit required.

(a) *When required*. A land disturbance permit shall be obtained before any land disturbance activity, including grading or excavating, that disturbs one (1) or more acres of total land area, or is a part of a common plan that will result in the disturbance of one (1) or more acres of total land area within the corporate limits of the city of Killeen. A land disturbance permit application shall be submitted prior to or concurrent with the construction plans for a subdivision.

(b) *When not required*. A land disturbance permit is not required for the following land disturbing activities:

(1) The removal, transplanting, or planting of woody or herbaceous plants on existing, individual one to four family residential parcels.

(2) Agricultural activities such as clearing and cultivating ground for crops, construction of fences to contain livestock, construction of stock ponds, and other similar agricultural activities.

(3) Clearing for the specific purpose of conducting measurements and surveys.

(4) These provisions do not relieve any entity or property owner from storm water runoff related damages caused by their land disturbing activity.

(c) *Required components*. An applicant shall submit two (2) copies of their Notice of Intent

(NOI) and accompanying Storm Water Pollution Prevention Plan (SWPPP) that comply with the requirements under the Texas Commission on Environmental Quality General Permit TXR150000, as amended, together with the following items:

(1) Completed permit application signed by the property owner or, in the case of a corporation/partnership, a party empowered to sign such actions (supported with authorizing documentation);
(2) Nonrefundable permit application fee, as established by the city council;
(3) Deed showing current ownership of the subject property.

(d) *Review process.* The city staff agency responsible for the intake and review of land disturbance permit applications shall be the public works department. Applications shall be submitted on a form provided by the planning division and processing shall begin each Friday or the first business day following a Friday holiday. The city engineer shall issue the land disturbance permit if all components required by this section have been submitted and the fee paid. The city engineer shall advise the applicant in writing of any concerns with the permit application held by the city engineer.

(e) *Additional components.* In all other cases where the applicant will not be submitting construction plans prior to land disturbing activities and the applicant's activities may divert or impound the natural flow of surface waters in this state, and the applicant is disturbing more than one (1) acre of land, the applicant shall submit a land disturbance permit application with the components listed in paragraph (c) above and, in addition include two (2) copies of the following documents (as applicable) and shall not commence with land disturbing activity prior to issuance of a land disturbance permit:

(1) A site inventory showing riparian corridors (stream ways, river ways, lacustrine basins, and/or wetland areas) and land unsuitable for site improvements based on soil type, slope, and other geotechnical conditions.
(2) A pre-disturbance site drainage analysis prepared in accordance with the city's drainage design criteria.
(3) A post-disturbance site drainage analysis prepared in accordance with the city's drainage design criteria and the provisions of article IV, division 2, sections 103 and 104 of this chapter, including all components of the pre-disturbance drainage analysis with modified calculations and storm water runoff paths resulting from the post-disturbance contours.
(4) If these features and/or conditions listed in subparagraphs (1), (2), and (3) above will not be affected by the proposed land disturbing activity, the respective additional components of this paragraph will not be required.

(f) *Issuance of permit.* The city engineer shall issue a permit within five (5) working days after the permit application is received or give a detailed written notice to the applicant that the permit application is incomplete. If the permit application is returned as being incomplete or incorrect, the applicant may correct the deficiencies and resubmit the permit application for approval one (1) time within forty-five (45) calendar days of the date of written notice without paying any additional fees. If the permit application is returned a second time or if a second request is not received within forty-five (45) calendar days of the date of notice of the first written notice, the applicant will be required to resubmit the permit application and shall pay all standard permit application fees.

(g) *Appeal.* The applicant for a land disturbance permit may file an appeal of a non-issuance by staff with the city manager's office within fifteen (15) calendar days. The appeal request must detail the applicant's basis for challenging the written findings of the city engineer. The city manager shall consider the merits of the appeal and shall either resolve the appeal in the applicant's favor and have the permit issued or schedule the appeal for the next available city council meeting agenda for final resolution.
(Ord. No. 07-045, § VI, 5-22-07; Ord. No. 07-069, § II, 8-14-07)

Sec. 26-81. Construction of infrastructure.

(a) Following approval of the final plat, the plat applicant shall submit full construction plans for all proposed infrastructure to be constructed for the platted property. Construction plans submitted shall be in conformance with the approved plat. The public works department shall review the submitted plans for compliance with the construction standards adopted by the city.

(b) Upon approval of construction plans by the public works department, the plat applicant and/or the plat applicant's contractor will provide written notification to the public works department of the intent to commence construction of the required infrastructure. No work may be performed unless written notification has been provided to the public works department. The written notification shall contain the following information:

(1) Name of the plat or subdivision;
(2) Plat applicant's name;
(3) Contractor's name, address and phone number;
(4) Type of construction to be performed; and
(5) Estimated value of construction contract.

(c) The public works department shall issue an acknowledgment of receipt of notification to the developer and/or his contractor.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-82. Phasing of infrastructure construction.

(a) At the time the applicant submits his or her construction plans to the public works department, the applicant may request approval to phase construction of the subdivision improvements. The construction plans submitted for approval shall clearly delineate those facilities to be constructed in the current phase. All requests for phasing made after construction plans have been approved shall be resubmitted for approval.

(b) Upon completion of each phase of infrastructure construction, the public works department shall issue a written letter of acceptance of the infrastructure, stating the specific street sections which have been accepted, and shall identify by lot and block numbers the lots which the building and development services department may issue building permits.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-83. Acceptance of infrastructure.

(a) Upon completion of all required infrastructure, prior to the acceptance of the subdivision by the city for maintenance, the applicant shall post, or cause to be posted, a maintenance bond executed by a corporate surety or corporate sureties duly authorized to do business in this state, payable to the city and approved by the city as to form, to guarantee the maintenance of the construction for a period of one (1) year after its completion and acceptance by the city. In lieu of a maintenance bond, the applicant may submit either an irrevocable letter of credit payable to the city and approved by the city as to form or a cash bond payable to the city and approved by the city as to form. The actual value of the maintenance bond or letter of credit or cash bond shall be ten (10) percent of the full cost of the water and sewer system and fifteen (15) percent of the full cost of the cost of street and drainage construction, as determined by the estimate of construction costs.

(b) Upon receipt of the approved maintenance bond, irrevocable letter of credit or cash bond, the public works department shall issue a written letter of acceptance of the infrastructure and notify the building and development services department that the subdivision has been accepted by the city.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-84. Building permits issued prior to completion of infrastructure.

(a) In the event an applicant wishes to obtain building permits prior to acceptance of the subdivision by the city, the applicant shall post with the city a completion bond executed by a corporate surety or corporate sureties duly authorized to do business in this state, payable to the city and approved by the city as to form for all construction included in the approved construction plans that has not been completed. In lieu of a completion bond, the applicant may submit either an irrevocable letter of credit payable to the city and approved by the city as to form or a cash bond payable to the city and approved by the city as to form.

(b) Under no circumstances shall building above the foundation be permitted until adequate fire protection is available. Adequate fire protection means:

(1) City utilities are installed;
(2) Fire hydrants providing protection are operational; and
(3) Streets are open and driveable, having all curbs and gutters installed, where required, street subgrades worked to proper compaction and base course installed, graded and leveled, to facilitate vehicle movement.

(c) After the plat has been recorded and the completion bond, irrevocable letter of credit or cash bond has been received and approved by the city, the public works department shall notify the building and development services department, by lot and block numbers, that building permits may be issued.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-85. Agreements with the city.

(a) The city of Killeen may enter into a contract with a developer of a subdivision or land within the city to construct public improvements, not including a building, related to development. Under such contract, the developer shall construct the improvements and the city

shall participate in the cost. All agreements under this section shall be in writing and set forth in a form agreement approved by the city attorney.

(b) *General policies:*

(1) The city/owner agreement must establish the limit of participation by the municipality at a level not to exceed thirty (30) percent of the total contract price.
(2) In addition, the contract may also allow participation by the municipality at a level not to exceed one-hundred (100) percent of the total cost for any oversizing of improvements required by the municipality, including but not limited to increased capacity of improvements to anticipate other future development in the area. The city shall be liable only for the agreed payment of its share of the contract which shall be determined and executed in advance.
(3) The owner must deliver a performance bond executed by a corporate surety or corporate sureties duly authorized to do business in this State, payable to the city and approved by the city as to form, for construction included in the approved construction plans, in the penal sum of one-hundred (100) percent of the cost to complete the public improvements insuring completion of the public improvements. A power of attorney shall be attached to the bond evidencing that the agent signing the bond has authority to sign the bonds on behalf of the surety. The city shall release the bond upon completion, final acceptance, and receipt of warranty bond for the public improvements subject to the city/owner agreement. The performance and warranty bond requirements set forth under this subsection may not be waived.
(4) The owner will deliver to the city a certificate of insurance listing the city of Killeen as an additional insured on its commercial general liability insurance policy.
(5) There may be instances outside the platting process when a person feels a city/owner Agreement may be warranted. In these cases, the person seeking the city/owner Agreement will notify the city manager in writing outlining the request and the approximate cost to the city. The city manager will respond and either set the agreement for city council consideration, or reject the proposal.
(6) All of the developer's books and other records related to the project shall be available for inspection by the municipality.

(c) *Utilities*:

(1) *Water lines*:

(a) City may pay oversize costs for all water lines required over eight (8) inches in diameter.
(b) Owner shall submit documentation to the public works department detailing the total costs of the improvements meeting the minimum standards required by the city including costs for the oversizing of any improvements. Upon review of the proposed project and all submitted documentation, the city may enter into a city/owner agreement whereby the city may agree to pay up to one-hundred (100) percent of the costs incident to the oversizing of improvements.

(2) *Sewer lines*:

(a) City may pay oversize costs for all sewer lines required over ten (10) inches in

diameter.

(b) Owner shall submit documentation to the public works department detailing the total costs of the improvements meeting the minimum standards required by the city including costs for the oversizing of any improvements.

(c) Upon review of the proposed project and all submitted_documentation, the city may enter into a city/owner agreement whereby the city may agree to pay up to one-hundred (100) percent of the costs incident to the oversizing of improvements.

(d) *Roads and drainage*:

(1) When an agreement to construct a road project is proposed, the owner shall provide a cost breakdown for the installation of a road required to provide the movement capacity for their development including all base material, asphalt, curb, gutter, engineering, and all other items associated with the construction of the road and drainage infrastructure. In no case shall less than a local or marginal access street be considered adequate to provide the required movement capacity for a development.

(2) The owner shall provide an estimate of the cost for the width of the road required by the city including all drainage, engineering, and added materials required to meet city standards for the width requested (e.g., additional flexible base, increased thickness of asphalt, larger drainage structures).

(3) The city may enter into a city/owner agreement wherein the city may pay the cost difference between the required road calculated per subsection 28-85 (d) (1) above, including appurtenances and engineering and the street width requested by the city with appurtenances, including engineering. In the event that a road is determined to require a thicker cross section due to proposed future additions to the road, the city will pay for all required asphalt and base to be installed initially to assure that the future cross sections are compatible.

(4) The owner shall provide all rights of way for the width of the road required by the city. To substantiate the cost of the right of way that exceeds the right of way to accommodate the movement capacity of the development, the developer shall provide a survey of the additional right of way and a copy of the property conveyance document that applies to the parcel upon which the additional right of way is requested.

(5) A city/owner agreement shall not be approved for local/marginal access roads within subdivisions or ingress/egress streets that must be wider than a local/marginal access road for safety reasons.

(e) *Development process:*

(1) Owner shall make known their intention in writing to seek a city/owner agreement at the time of plat submission.

(2) The owner shall identify the infrastructure for which they will seek a city/owner agreement and an estimate of the amount of oversized infrastructure that will be requested of the city.

(3) The city council will be briefed on the potential city/owner agreement and available funding.

(4) Concurrent with plat approval, the city council may agree in principle to the level of city participation and costs for the proposed infrastructure, and may instruct the city

staff to proceed with detailed negotiations and empower the city manager to enter into the city/owner agreement at a cost not to exceed the estimated fund level. This agreement in principle shall be held in suspense within the planning division pending receipt of the final city/owner agreement.

(5) Following approval of the "agreement in principle," and prior to any construction activity on infrastructure included in the proposed agreement, the owner shall prepare construction drawings and provide the detailed cost for the areas for city participation. If the final detailed cost does not exceed the figure identified in the "agreement in principle," the city/owner agreement will be prepared in final form, signed by appropriate parties and filed in the appropriate plat file.

(6) If the final detailed cost exceeds the estimate identified in the "agreement in principle," the final agreement will be forwarded to the city council for approval and authorization of the city manager to execute the agreement. If the city council elects not to enter into agreement at the increased cost but desires to retain the engineered plans, the city may enter into agreement to retain the plans and reimburse the owner for their preparation.

(Ord. No. 95-38, § I, 4-25-95; Ord. No. 07-045, § VII, 5-22-07)

Secs. 26-86--26-90. Reserved.

ARTICLE IV. STANDARDS AND REQUIREMENTS

DIVISION 1. GENERALLY

Sec. 26-91. Lots, blocks, and street layout.

(a) All lots of the plat shall front or have access to a dedicated street. Plats shall not be approved if the platting action creates land-locked parcels. A plat applicant may provide existing parcels access to a dedicated street through a passage easement granted into perpetuity if such easement is required to prevent land locking a parcel. The size of the required easement may vary in accordance with the land area to be land-locked. A land locked parcel of less than two acres existing on the effective date of this ordinance may be platted with access to a dedicated right of way through an easement only if extending or creating a public street is not required by the planning and zoning commission.

(b) In general, lots shall conform in width, depth, and area to the patter already established in the adjacent areas, having due regard to the character of the neighborhood, its particular suitability for residential purposes, and also taking into consideration the natural topography of the ground, drainage, sanitary sewage facilities, and the proposed layout of the streets. Emergency vehicles shall have ingress and egress access to all lots.

(c) Lots shall have the minimum width measurements, front, rear, and side yard and area requirements required by chapter 31 of the city code of ordinances.

(d) The area of the lots shall be computed by taking the average width of the lot times the average depth of the lot measured from the street line to the rear lot line.

(e) The lot line common to the street rights-of-way shall be front line. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

Side lot lines shall project away from the front line at approximately a right angle to street lines and radial to curved street lines. The rear line shall be opposite and approximately parallel to the front line. Variation from this rule is permitted, if in the opinion of the planning and zoning commission, such variation will produce a better lot plan and better utilize the proposed development. The length and bearing of all lot lines shall be indicated on the plat.
(Ord. No. 95-38, § I, 4-25-95; Ord, No. 03-21, § I, 4-22-03; Ord, No. 05-25, § II, 3-22-05)

Sec. 26-92. Park sites.

The planning and zoning commission and city council shall consider offers of land for parks or playgrounds which conform to the current master plan adopted by the city, provided such plan exists. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-93. Use of city condemnation authority.

(a) Water and sewer mains, force mains and lift stations, streets and drainageways shall be located in easements or rights-of-way secured and paid for by the applicant. Such easements shall be properly assigned to the city before service is extended to the subdivision.

(b) In cases where easements cannot be secured by the applicant, the applicant may file a written petition with the public works department, accompanying the plat application, requesting that the city council utilize its condemnation authority. The written petition must satisfy all of the following criteria:

(1) The applicant must establish that clear evidence of public need exists;
(2) The applicant must establish that the proposed extension is in accordance with the current adopted master utility plan(s), if such plan(s) exists;
(3) The applicant must establish that the proposed extension will be able to serve other development areas;
(4) The applicant must agree to pay all costs of the condemnation; and
(5) The applicant must present written evidence that every practical attempt to secure the needed easements and/or right-of-way has been made by submitting the following:

a. A condemnation appraisal by an independent appraiser as to the current market value and damages, if any, of acquiring the easement and/or right-of-way; and
b. Documentation that a written offer has been made to purchase the easement and/or right-of-way for the appraised value and the offer was rejected.

(c) The petition shall be forwarded to the planning department for review and recommendation and scheduled for consideration by the planning and zoning commission. The planning and zoning commission shall make a recommendation to the city council and the decision of the city council shall be final.
(Ord. No. 95-38, § I, 4-25-95)

Secs. 26-94--26-100. Reserved.

DIVISION 2. STREETS AND DRAINAGE

Sec. 26-101. Streets.

(a) Street widths in subdivisions shall conform to the current thoroughfare plan adopted by the city council.

(b) Existing streets shall be continued where practical, as determined by the planning and zoning commission. Continuations of existing streets shall have the same or greater right-of-way and pavement widths as the existing streets being connected. Street names shall be continuous.

(c) All necessary street rights-of-way as determined by the thoroughfare plan shall be dedicated as part of the platting or permitting process. In the event the city requires a right of way width greater than the right of way necessary to accommodate the paved surface for the street required to provide the movement capacity for the development, the city will provide the additional right of way required. To substantiate the cost of the additional right of way, the developer shall provide a survey of the additional right of way and a copy of the property conveyance document that applies to the parcel upon which the additional right of way is requested. Street right of way and design requirements may be increased, to provide the additional capacity consistent with the impact of a proposed development. Additionally, the city engineer may increase, decrease or modify street right of way and design requirements based on sound engineering practice when safety concerns, topography, or development circumstances warrant.

(d) Dead-end streets may be platted where the land adjoining the plat has not been platted. In the event that such dead-end street exceeds one hundred fifty (150) feet in length or one (1) lot width, from the nearest street intersection, the street will be provided with a cul-de-sac, either permanent or temporary, having a minimum right-of-way radius of fifty (50) feet.

(e) Where dead-end streets are dictated by lot designs, such dead-end streets shall be provided with a permanent cul-de-sac having a minimum right-of-way radius of fifty (50) feet.

(f) No street intersection shall be designed having an inside angle of less than thirty (30) degrees between the two (2) intersecting street lines, nor more than one hundred fifty (150) degrees.

(g) A street section is herein defined as the length of a street between two intersections of any type or the length between an intersection and a street terminus with an engineered turnaround. Such sections should not exceed one thousand two hundred (1,200) feet. Variation from this rule is permitted if, in the opinion of the planning and zoning commission, such variation provides for quality development and all lots have adequate access.

(h) Streets, where practical, as determined by the planning and zoning commission, shall be designed and platted with appropriate regard to connectivity to adjacent subdivisions, the existing and planned transportation network and topographical features, i.e., creeks and drainageways, wooded areas, etc., with the aim of creating desirable and attractive treatments of significant existing features. The commission may require modification be made to the street design to accommodate public health, safety and welfare considerations.

(i) Where a major entrance to a subdivision is not a planned collector on the thoroughfare plan, the local/marginal access street shall be a minimum of forty-eight (48) feet wide (back-of-

curb to back-of-curb) with a seventy (70) foot right of way for a minimum distance of one-hundred and twenty (120) feet from the intersection. Where a subdivision has multiple points of ingress/egress, the major entrance shall be on the street with the most intense functional classification. In circumstances where the functional classifications are equal or both streets are local, the developer may select his major entrance subject to the approval of the city engineer. As a rule, new subdivisions must have at least two (2) access streets. A developer may request the planning and zoning commission waive this rule and approve one access street if the access street has no connecting streets, terminates in a permanent cul-de-sac, is not more than one-thousand and two-hundred (1200) feet in length and provides access to not more than a total of thirty (30) single-family dwelling lots or an equivalent housing unit density comprised of duplex or multi-family structures. However, in no case shall lots platted in the city of Killeen have their sole access through an adjacent city. In addition to the single point of access situation presented by streets that end in permanent cul-de-sac, a single point of access may be dictated by property configuration, considerations the volume of property owned by the plat applicant, safety engineering, or access management restrictions. In determining if a new subdivision may have one point of ingress/egress, consideration shall be given to:

(1) traffic circulation and emergency vehicle access;
(2) traffic and pedestrian safety with due consideration given to school bus routes;
(3) topography and visibility distances;
(4) surrounding developed property and whether adjacent development is anticipated to provide additional access;
(5) whether the property owner owns sufficient property to provide a second access point.

If a single access point is approved, the access must be constructed as a raised median divided street with a distance of one-hundred and twenty (120) feet. The city engineer will determine the number of lanes required and if turning or acceleration/deceleration lanes are required to provide safe ingress/egress after due consideration to the density of the subdivision and the functional clarification of the street intersecting with the access street.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 03-21, § II, 4-22-03; Ord. No. 03-21, § III, 4-22-03; Ord. No. 03-51, § I, 9-23-03; Ord. No. 05-25, § III, 3-22-05; Ord. No. 07-045, § VIII, 5-22-07)

Sec. 26-102. Alleys, reserve strips.

(a) In developments that include alleys, the alleys shall be laid in the rear of lots fronting on adjoining streets. In residential subdivisions, the minimum width of right of way of an alley shall not be less than twenty (20) feet. All alleys shall be paved for the entire width of the right of way to the same specifications as minor residential streets, less curb and gutter. The rear or side line easement, where alleys are not provided, shall be a minimum of twenty (20) feet wide, arranged such that each lot shall have an equal ten (10) foot easement.

(b) A reserve strip is defined as any parcel of land that has the effect of controlling access to public utilities or right of way. No plat showing reserve strips of land shall be approved. Reserve strips may be created when a property owner submits a subdivision plat for only a portion of the owned property. In such instances, easements to provide connectivity to utilities being installed in the platted area and public right of way to connect to streets being installed in the platted area will be provided from the point where utilities and streets terminate in the platted area to the boundary of the property owned by the subdivider.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 07-045, § IX, 5-22-07)

Sec. 26-103. Drainage in special flood hazard areas.

Drainage structures in areas of special flood hazard in the city shall comply with the provisions of chapter 12 of the city code of ordinances. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-104. Drainage not in special flood hazard areas.

(a) Design of all improved open drainage courses and enclosed drainage structures shall be by a registered professional engineer in accordance with the current drainage design standards approved by the city council.

(b) The design and construction of all improved open drainage courses and enclosed drainage structures shall provide for adequate access for the performance of necessary maintenance by the city.

(c) All improved drainage courses and enclosed drainage structures shall be dedicated to the city and accepted for maintenance by the city upon approval of the construction by the public works department.

(d) The city shall maintain all improved drainage courses, provided that the original design and construction has been approved by the public works department and accepted by the city for maintenance.

(e) Improved open drainage courses shall conform as follows:

(1) Open drainage courses which carries runoff from a street, between two (2) lots, to a drainage course running behind lots shall be a concrete-lined flume.
(2) Open drainage courses running behind lots may be of earthen channel or concrete-lined channel, provided the type of channel used satisfies the design criteria (velocity, type of soil, etc.) in accordance with the current drainage design standards approved by the city council.
(3) Where the open drainage course is a concrete-lined flume, the width of the easement shall be equal to the width of the flume. All other open drainage courses require the width of the easement to be equal to the width from top-of-bank to top-of-bank plus maintenance way needs as given in the drainage design standards.

(f) Enclosed drainage courses shall conform as follows:

(1) Cross drainage for right-of-way needs shall be designed to meet the same requirements as its channel.
(2) Permanent structures and improvements may be constructed upon and across improved enclosed drainage courses in business zoning districts and manufacturing zoning districts. Design shall be to accommodate the 100-year frequency flood.
(3) The width to the easement shall be equal to the width of the structure.

(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-105. Sidewalks.

(a) All sidewalks over drainage structures shall be constructed prior to the release of the subdivision.

(b) Sidewalk ambulatory ramps shall be constructed within each curb return at all street intersections within the subdivision prior to the granting of a certificate of occupancy for the applicable lot. The ramp dimensions and surface finish shall be uniform throughout the subdivision.

(c) The developer shall establish a uniform ground surface not to exceed the top of curb elevation for all right-of-way inside each curb return requiring sidewalk ambulatory ramps prior to the release of the subdivision.

(d) The city engineer may require construction of sidewalk ambulatory ramps prior to the release of the subdivision where utility appurtenances (e.g., manhole riser; fire hydrant assembly) or immobile landforms encroach into the right-of-way inside a curb return requiring sidewalk ambulatory ramps.

(e) All sidewalk and ramp construction shall conform to all applicable Texas Accessibility Standards and Americans with Disabilities Act design requirements and chapter 25 of the city of Killeen code of ordinances.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 07-045, § X, 5-22-07; Ord. No. 08-013, § I, 3-11-08)

Sec. 26-106. Street name signs.

Street name signs and markers and traffic control signs, in accordance with standards adopted by the city, will be required at each intersection. The city will provide street signs and posts for the markers and make the installations when the subdivision is accepted by the city for maintenance. (Ord. No. 95-38, § I, 4-25-95)

Sec. 26-107. Street lighting.

(a) Adequate street lighting shall be provided for the protection of the public and property and shall be installed in all new subdivisions within the corporate limits of the city of Killeen.

(b) Street lights will be installed at intersections, curves, dead ends, cul-de-sacs and where spacing exceeds twelve hundred (1200) feet.

(c) A street light plan shall be submitted with the construction plans required by section 26-81 of this chapter. The city engineer shall approve the street lighting plan.

(d) The developer shall select and have installed all of the lines, poles, luminaries and lamps required to comply with the approved street light plan. The minimum acceptable design for street lights in the city of Killeen shall be embedded round fiberglass poles with post top lantern style fixtures. The city reserves the right to require round tapered galvanized steel poles with cobra head fixtures when essential to provide the necessary degree of illumination. All street light infrastructures shall be in dedicated utility easements or rights of way. Installation procedures and acceptable standards for street lights shall be governed by the design and specification standards of the electric utility company serving the subdivision. The use of special non-standard poles or fixtures from sources other than the electric utility shall not be accepted for dedication to the public.

(e) Street lights on local and collector streets shall be at least 100-watt high pressure sodium vapor or equivalent. Street lights on major collectors and arterials shall be at least 250-watt high pressure sodium vapor or equivalent.

(f) The developer shall be responsible for the cost of street light installation including the cost of service lines to supply electricity to the street lights and all engineering costs not borne by the electrical service provider. Developers may decrease their installation costs by completing all or part of the installation of street lighting to include the necessary trenching and installation of conduit to the location of required street light placement, as acceptable to the electric utility provider and as required by the street lighting plan.

(g) Once satisfactorily installed, approved, and accepted, the street lights shall be dedicated to public use with maintenance of the street light being provided by the electric utility company serving the area. The electric utility company providing service to the area shall furnish electric energy to installed and dedicated street lights. The city of Killeen will pay the energy costs of dedicated street lights located within the city.

(h) Extraterritorial jurisdiction (ETJ) - A street lighting plan shall be developed for subdivisions in the ETJ and any utility easements required to execute the plan shall be dedicated for public use. Installation of street lights will not be required; however, in preparation for future street light installation, necessary trenching and installation of conduit to the location of required street light placement will be accomplished by the developer, as required by the street lighting plan.
(Ord. No. 02-46, § I, 9-24-02)

Sec. 26-108. Postal service delivery.

(a) Adequate postal service shall be provided and installed in all new subdivisions in the corporate limits and within the extra-territorial jurisdiction of the city of Killeen.

(b) United States Postal Service policy assigns the responsibility for the acquisition and installation of mail receptacles to the customer. In the case of any new final, minor or development subdivision plats, the developer shall be responsible for acquiring and installing the appropriate mail receptacles to accommodate the delivery method prescribed by the U.S. Postal Service.

(c) The developer shall coordinate with the Killeen Postmaster and identify the type of mail receptacles to be used in the developer’s subdivision and the location where the receptacles will be installed. In the event central delivery is prescribed, a postal service central mail receptacle layout sheet shall be submitted with the plat, replat or an amendment that creates lots.

(d) The developer shall be responsible to purchase and install mail receptacles in accordance with U.S. Postal Service material specifications and construction standards available from the Killeen Postmaster. When central mail receptacles are prescribed, pads shall be constructed concurrent with street curbing and central mail receptacles shall be installed prior to the subdivision or the respective phase of the subdivision being released for permitting.

(e) All mail receptacles shall be located in rights of way or within a dedicated postal service easement. When a mail receptacle is not planned to be located within dedicated right of way, the

receptacle shall be in an easement identified on the plat as a postal easement.

(f) When the Postal Service determines that central delivery shall be used, once the central receptacle is satisfactorily installed, approved and accepted by the Killeen Postmaster, the Killeen Postmaster shall enter into a written agreement that all maintenance, replacement, or other actions with regards to damaged centralized receptacles shall be borne by the Postal Service.

(g) Extraterritorial jurisdiction (ETJ) – When the Postal Service determines that central mail receptacles are to be installed in a subdivision in the extraterritorial jurisdiction that is being expanded using county roads with bar ditch drainage, the receptacle shall be installed prior to completion of any serviced structure.
(Ord. No. 07-054, § I, 6-26-07)

Secs. 26-109--26-110. Reserved.

DIVISION 3. WATER AND SEWER INFRASTRUCTURE

Sec. 26-111. General provisions.

(a) The intent and purpose of this division is to provide equitable charges for water and sewer connections as a proportionate distribution of the cost of the water and sewer main extensions to serve property within the city. If the existing city utility facilities are not within or adjacent to a subdivision, the developer shall construct the necessary extension of water and sewer mains, force mains, force mains, and lift stations, including all valves, manholes, and piping necessary to serve any future development of abutting property as specified in this chapter. The developer's engineer shall prepare a proposed plan of service for the subdivision and property along the extension which shall be reviewed by the plat review committee. These facilities shall be constructed in accordance with both the master plan and the Technical and Administrative Manual for Water and Sewer System Development ("Manual").

(b) It is the general policy of the city that:

(1) Water and sewer mains should be large enough to serve all the lots platted and, should the city determine oversizing is necessary, the city may participate in those lines greater than 8" for water and greater than 10" for sewer.
(2) All utilities shall be required to extend across the full width of the last lot platted on each street proposed within the subdivision, in such an alignment that it can be extended to the next property in accordance with the master sewer and water plans for the city, provided such plan(s) exist. Properties already served by water and sewer shall not be required to install additional facilities unless:

(i) The current lines are not of adequate capacity to serve the proposed development; in which case the applicant will be required to install adequate facilities.
(ii) As a result of replatting lots originally platted prior to August 24, 1963, the costs for the provision of water and sewer mains, force mains, and lift stations necessitated by the replat may be shared by the city and the applicant to a maximum participation by the city of twenty-five (25) percent of the applicant's total utility main project cost.

(c) Every lot of the plat shall have direct access to the water and sewer system. Utility service shall be from a water/sewer main located in an abutting right-of-way or through easements from the lot to a water/sewer main.

(d) Water and/or sewer service may not be extended outside the city limits.

(e) (1) The terms of this division shall be cumulative of all other ordinances regulating subdivisions, and such other ordinances are not repealed by this division, except to the extent that such other provisions conflict with the terms of this chapter, in which event this chapter shall prevail.

(2) This division is intended to set the general policies, supplemented by technical and administrative procedures contained in the public works department's manuals as approved by the city council, and which is incorporated herein. The manual shall address such items as determining capacity, design standards, service areas, and other administrative and technical details for implementing the policies of this division. The manual shall be available to interested parties in the same manner as all other public documents. Between the time this ordinance is adopted and the time the manual is completed by public works and adopted by the city council, the policies, formulas, capacities, grades, percentages, and other standards existing prior to this ordinance shall remain in effect to the extent necessary, except where otherwise explicitly altered herein.

(3) The status of any previously designated line extension, lift station, or main shall be unaffected by this ordinance, save and except the Clear Creek pro rata line, designated in CCM #95-121R. The Clear Creek pro rata line designation is hereby rescinded.

(f) In addition to any other remedy provided by law, the city and its officers shall have the right to enjoin any violation of this chapter by injunction issued by a court of competent jurisdiction.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 96-2, § II, 1-23-96)

Sec. 26-112. Water.

(a) No water main shall be extended unless the diameter of any such extended main is a minimum of six (6) inches inside the subdivision. Larger mains may be required per the water master plan, provided such plan exists.

(b) Water system layout shall be looped whenever possible. Dead-end mains shall not exceed one thousand eight hundred (1,800) feet or include three (3) fire hydrants. Single feeds may be permitted at the discretion of the public works department; however, any such denial may be appealed to the planning and zoning commission. Single feeds should include provisions for looping in future development.

(c) The location of fire hydrant(s) shall comply with chapter 11 of the city code of ordinances.

(d) Long water service taps shall be installed while the subdivision is being developed. Short water service taps shall be installed when needed for development. Long water service taps

locations shall be shown by branding a “W” on the curb. No water service taps smaller than six (6) inches in diameter shall be allowed on water mains larger than twelve (12) inches in diameter.
(Ord. No. 95-38, § I, 4-25-95)

Sec. 26-113. Sewer.

(a) No sewer main shall be extended unless the diameter of any such extended main is a minimum of six (6) inches inside the subdivision. Larger mains may be required per the sewer master plan, provided such plan exists.

(b) Manholes are required any time the alignment, slope, or diameter of the sewer main changes, or when two or more sewer mains intersect. In no case will the maximum spacing between manholes, or from a manhole to a cleanout, exceed 500 feet.

(c) Sewer services for sewer mains located in roadways shall be installed while the subdivision is being developed. Sewer services with direct access to the sewer main without encroaching on a roadway may be installed when needed for development. Sewer tap locations shall be shown by branding an “S” on the curb. Sewer services six (6) inches and larger require a manhole where they intersect the sewer main.

(d) Minimum lift station capacity shall be one hundred (100) gallons per minute and shall have at least two (2) pumps, each of which shall be capable of pumping the design capacity of the lift station. The minimum size of the wetwell shall be such that with any combination of inflow and pumping, the cycle of operation for each pump shall not be less than five (5) minutes and the maximum retention time in the wetwell shall not average more than thirty (30) minutes.

(e) In locations where sanitary sewer service is not available, as determined by the public works department, an individual sewage disposal system of a type approved by the building and development service department may be installed in conformity with chapter 8 of the city code of ordinances, provided a percolation test is furnished by the applicant.
(Ord. No. 95-38, § I, 4-25-95; Ord. No. 96-2, § III, 1-23-96)

Sec. 26-114. Costs of extensions.

a. *Developer initiated*. All costs of all water and sewer main extensions, force mains, and lift stations initiated by a developer in order to provide required service for their development area, shall be paid for by the developer. Such costs may include; but is not necessarily limited to, right-of-way acquisition, pipes, motors, pumps, engineering, construction costs, inspection fees, and all weather access.

In accordance with city ordinances and the manual:

(1) the developer shall have the option to require pro rata cost participation from property owners who have access to the line extensions and/or lift stations;
(2) the city, at its option, may share construction costs for improvements and/or extensions with a developer when:
    (a) the city requires oversized lines or lift station capacity; or
    (b) participation is determined to be in the best interests of the city; and

(c) funds are available.

In no event shall the reimbursements or cost sharing, from all sources, exceed the developer's actual costs of the main, force main, or lift station.

b. *City initiated*. All costs of all water and sewer main extensions, force mains, and lift stations initiated by the city in order to provide service shall be paid for by the city.
(Ord. No. 96-2, § IV, 1-23-96)

Sec. 26-115. Collection and reimbursement policy.

a. As supplemented by the manual, the reimbursement and payment policy of the city under this division shall be:

(1) A city/developer agreement shall be executed before any reimbursement may be made. The agreement shall state the estimated cost, terms of payment, and amount of reimbursement. It may be amended to reflect the final costs. The agreement shall be made prior to the city accepting the main or lift station.
(2) Unless otherwise specifically approved by the city council, the maximum term during which the city will collect and remit funds to the developer, from other users who connect to the developer's line or lift station, shall be ten (10) years from the date the main or lift station is finally inspected and accepted by the city.
(3) At the expiration of the ten (10) year reimbursement period, or such other time period as provided above, and in those instances where there is to be no reimbursement to a developer, and the pro rata designation of the line shall lapse and no reimbursements shall be due.
(4) Any customer not paying the pro rata charge prior to the time of installation of the extension, who later requests service, must pay the pro rata in full, plus a surcharge of fifteen (15) percent, plus the tap fee before service will be installed. The surcharge defrays the city's administrative, operational, and maintenance costs and will be excluded from computation of any refunds.
(5) On pro rata lines and lift stations the entire cost of extension, minus any participation by the city or other governmental entity, must eventually be provided by the property owner(s) served by the extension.
(6) The city reserves the right to negotiate or adjust the pro rata charge to any customer to avoid inequitable charges.
(7) Nothing in this subdivision or the manual shall be construed as the exclusive means for enforcing payment of pro rata cost against customers or property owners, but all provisions are cumulative to all other methods and means provided for by law, including assessments and liens.

(Ord. No. 96-2, § IV, 1-23-96)

Sec. 26-116. Use of water and sewer tap fees and rate revenues.

Tap fees and rate revenues shall be set in an amount sufficient to maintain and operate the system, with due regard for anticipated needs to improve, update, construct, and maintain the system. (Ord. No. 96-2, § IV, 1-23-96; Ord. No. 97-58, § I, 10-28-97)

Sec. 26-117. Master plan.

a. Not later than September 30, 1997, the city council shall adopt a master plan for water and sewer extensions and facilities. The master plan shall be used by the city as a guideline for both the design of new extensions and facilities, and for expenditures from the water and sewer extension fund.

b. Prior to September 30, 1997, the policies, procedures, requirements, and standards existing at the time this ordinance is originally enacted shall continue in full force and effect, save and except the manual, shall become effective upon adoption regardless of the status of the master plan.
(Ord. No. 96-2, § IV, 1-23-96)

Sec. 26-118. Use of city condemnation authority.

a. Water and sewer mains, force mains, and lift stations shall be located in easements, secured and paid for by the developer, and assigned to the city before service is extended to the subdivision. For the city to consider to using condemnation authority to assist a developer in extension of the system, the applicant must show clear evidence that every practical attempt to secure the easement has failed and there is a public need and interest for condemnation. Specific criteria and procedures shall be as stated in the manual.

b. Upon compliance with all procedures by the developer, the city, at least 10 days prior to the hearing shall notify all property owners within the proposed easement and 200 feet therefrom. A hearing of facts by the planning and zoning commission with recommendation to the city council is required. Determination of the city council shall be final.
(Ord. No. 96-2, § IV, 1-23-96)

Sec. 26-119--26-125. Reserved.