



City of West University Place

A Neighborhood City

CITY COUNCIL

Bob Higley, Mayor
Kevin Trautner, Mayor Pro Tem
Lauri Lankford, Councilmember
John P. Barnes, Councilmember
Ed Sobash, Councilmember

STAFF

David J. Beach, City Manager
Alan Petrov, City Attorney
Thelma Gilliam, City Secretary

City Council Meeting Agenda

Notice is hereby given of a **workshop and regular meeting** of the West University Place City Council to be held on **Monday, February 24, 2020** beginning at **5:00 p.m.** in the **Municipal Building** located at 3800 University Boulevard, West University Place, Texas, for the purpose of considering the following agenda items:

Note: All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and, if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

WORKSHOP (5:00 PM in the Bill Watson Conference Room)

1. **Call Workshop to Order**
2. **Buffalo Speedway Replacement Project Enhancement Options**
Matters related to an update to City Council regarding possible enhancements (trees, lighting, architectural treatments, etc.) to be completed during the replacement of the road surface and drainage improvements along Buffalo Speedway. *Recommended Action: Discuss and provide staff direction if desired. Mr. Gerardo Barrera, Public Works Director*
3. **Adjourn Workshop**

REGULAR MEETING (6:30 PM in the Council Chambers)

4. **Call Regular Meeting to Order**
5. **Pledge of Allegiance**
6. **Public Comments**
This is an opportunity for citizens to speak to Council relating to agenda and non-agenda items. If the topic the speaker wishes to address is on the agenda, the speaker can either speak at this time or defer his/her comments until such time the item is discussed.

Speakers are advised that comments cannot be received on matters which are the subject of a public hearing once the hearing has been closed. Public comments must be kept relevant to the subject before the Council. The presiding officer shall rule on the relevance of comments.

Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Council during the meeting. Speakers are required to register in advance and must limit their presentations to three minutes each.

7. National Arbor Day Proclamation

Matters related to Arbor Day. *Recommended Action: Proclaim April 4, 2020 as Arbor Day in West University Place. Mr. Craig Koehl, Urban Forester.* [see Proclamation]

8. Right-of-Way Standards

Matters related to an ordinance amending Section 18-62, part of Chapter 70, of the Code of Ordinances relating to right-of-way design and mobility. *Recommended Action: Approve ordinance related to right-of-way design and mobility on the first of two readings. Mr. Gerardo Barrera, Public Works Director and Mr. Bruce Beneke, BSC Chair* [see Agenda Memo 8]

9. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. City Council Minutes

Approve the City Council Workshop Minutes of February 10, 2020. [see Action Minutes]

B. Bee Ordinance

Matters related to an ordinance amending Chapter 14, Animals, of the Code of Ordinances by adding a new Article IV relating to bees and adopting the ordinance on the second and final reading. *Recommended Action: Adopt ordinance adding Article IV to Chapter 14 of the Code of Ordinances ordinance on the second and final reading. Mr. Gerardo Barrera, Public Works Director* [see Agenda Memo 9B]

C. Subdivisions Update Ordinance

Matters related to an ordinance amending Chapter 74 of the Code of Ordinances relating to subdivisions. *Recommended Action: Adopt ordinance on the second and final reading. Mr. Gerardo Barrera, Public Works Director and Mr. Richard Wilson, ZPC Chair.* [see Agenda Memo 9C]

10. Adjourn Regular Meeting

In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact City Secretary Thelma Gilliam at 713.662.5813 at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Council Chambers is wheel chair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area. Special seating will be provided.

I certify that the attached notice and agenda of items to be considered by the West University Place City Council on February 24, 2020 was posted on the Municipal Building bulletin board on February 20, 2020 at approximately o'clock 3:00 p.m.

Thelma A. Gilliam

Thelma A. Gilliam, City Secretary

(SEAL)



AGENDA MEMO
Business of the City Council
City of West University Place, Texas

Meeting Date	2.24.2020	Agenda Item	7
Approved by City Manager	Yes	Presenter(s)	C. Koehl, Urban Forester
Reviewed by City Attorney	Yes	Department	Public Works
Subject	Arbor Day Proclamation		
Attachments	Proclamation		
Financial Information	Expenditure Required:	Not Applicable	
	Amount Budgeted:	Not Applicable	
	Account Number:	000-0000-0000	
	Additional Appropriation Required:	Not Applicable	
	Additional Account Number:	Not Applicable	

Executive Summary

The National Arbor Day Foundation notified staff that the City has been designated a Tree City USA for the 30th consecutive year.

The National Arbor Day Foundation promotes educational opportunities for communities to learn about trees and the environment through local Arbor Day festivals and the Tree City USA award program. The City is qualified to receive the designation because it meets the pre-requisites in that it has a tree ordinance, it hosts an annual Arbor Day event, and it has an urban forester on staff.

This year, the City's Arbor Day will be held in conjunction with the Parks & Recreation Department's Easter Spring Festival on April 4, 2020 at 9 AM at the West University Place Recreation Center. The Urban Forester will be on hand to speak to residents about tree diversification, adequate growth space, and planting appropriate species.

The first 30 residents in attendance will receive a complimentary tree.

Recommended Action

Staff recommends that City Council proclaim April 4, 2020 as Arbor Day in the City of West University Place.

CITY OF WEST UNIVERSITY PLACE
PROCLAMATION

ARBOR DAY

April 4, 2020

WHEREAS, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

WHEREAS, this holiday called Arbor Day, was first observed with the planting of more than a million trees in Nebraska; and

WHEREAS, in Texas, in 1889, the citizens of Temple conceived an Arbor Day resolution which the Texas Legislature passed into law, and Arbor Day was first celebrated in Texas in 1890; and

WHEREAS, Arbor Day is now observed throughout the nation and the world; and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products; and

WHEREAS, trees in our City increase property values, enhance the economic viability of business areas, and beautify our community; and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal.

NOW, THEREFORE, BE IT RESOLVED THAT, I, Robert A. Higley, Mayor of the City of West University Place, do hereby proclaim **April 4, 2020** as Arbor Day in the City of West University Place, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and further, I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Robert A. Higley
Mayor

Date



AGENDA MEMO

Business of the City Council
City of West University Place, Texas

Meeting Date	2.24.2020	Agenda Item	8
Approved by City Manager	Yes	Presenter(s)	G. Barrera, Director Bruce Beneke, BSC Chair
Reviewed by City Attorney	Yes	Department	Public Works
Subject	Right-of-Way Standards		
Attachments	<ol style="list-style-type: none"> 1. Ordinance 2. Appendix A and B – Redlined 		
Financial Information	Expenditure Required:		Not Applicable
	Amount Budgeted:		Not Applicable
	Account Number:		000-0000-0000
	Additional Appropriation Required:		Not Applicable
	Additional Account Number:		Not Applicable

Executive Summary

In order to address the standardization of the placement and design of sidewalks in the City, after several meetings and recommendation from staff, the Building and Standards Commission (BSC) made the determination that portions of the Code would require amendments to reflect the new design standards. The amendments include revisions to Chapter 18 and Chapter 70 of the Code that ensure unimpeded pedestrian mobility through the City.

Key areas revised in Chapter 18 include:

- Repealing of the existing Section 18-62 and adoption of a new Section 18-62 per Appendix A which addresses:
 - Installation of new sidewalks required for major development or substantial improvement.
 - Replacement of damages to curbs and gutters
 - Limit exceptions to sites where sidewalks did not exist previous
 - Update definition from major remodel to substantial improvement
 - Elimination of interim waivers

Key areas revised in Chapter 70 include:

- Repealing of the existing Section 70-58 and adoption of the new Section 70-58 per Appendix B
 - This section includes the requirement of sidewalks per the City’s Standard Driveway and Sidewalk Detail sheet.
- Adoption of new Section 70-60 per Appendix B
 - Defines the requirements for the building of sidewalks and driveways:
 - Sidewalks shall run parallel to the curb and be located closer to the property line
 - Provide protective measures for roots

- No installation of meters, meter boxes, valves, cleanouts in paved areas unless approved by Chief Building Official
- 18 feet minimum from garage door to edge of property line
- No encroachment of driveway parking space into the street right-of-way
- Approval required from Building Official to use decomposed granite for sidewalks

At the December 4, 2019 meeting, the BSC, staff, and the City Attorney discussed the newly proposed amendments to Chapter 18 and Chapter 70 and after comments and review, the BSC voted to approve the amendments to both Chapters and request final approval from City Council.

Recommended Action

The Building and Standards Commission and staff recommend that City Council approve an ordinance amending Article II-General Regulations, Section 18-62 and Article III-Sidewalks Section 70-58 thru 70-60 on the first of two readings.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS; AMENDING CHAPTER 18, BUILDINGS AND DEVELOPMENT, ARTICLE II, GENERAL REGULATIONS, SECTION 18-62, CURBS, GUTTERS, SIDEWALKS, AND CHAPTER 70, STREET AREAS AND PUBLIC PLACES, ARTICLE III, SIDEWALKS, SECTION 70-58, SIDEWALKS REQUIRED, RENAMING SAID ARTICLE DRIVEWAYS AND SIDEWALKS AND ADOPTING A NEW SECTION 70-60, GENERAL DRIVEWAY AND SIDEWALK REQUIREMENTS, OF THE CODE OF ORDINANCES OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, TO REVISE THE CRITERIA FOR CONSTRUCTING DRIVEWAYS AND SIDEWALKS WITHIN THE CITY AND CONTAINING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, THAT:

Section 1. Chapter 18, Buildings and Development, Article II, General Regulations, Section 18-62 of the Code of Ordinances of the City of West University Place, Texas is amended by the repeal of the existing Section 18-62 and the adoption of a new Section 18-62 to read as set out in Appendix A, attached hereto. All other portions of Chapter 18 of the Code of Ordinances not specifically amended hereby remain in full force and effect.

Section 2. Chapter 70, Street Areas and Public Places, Article III, Sidewalks, of the Code of Ordinances of the City of West University Place, Texas is amended by the renaming of said Article as Driveways and Sidewalks, the repeal of the existing Section 70-58 and the adoption of a new Section 70-58 as well as the adoption of a new Section 70-60 all to read as set out in Appendix B, attached hereto. All other portions of Chapter 70 of the Code of Ordinances not specifically amended hereby remain in full force and effect.

Section 3. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 4. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 5. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been

open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

Section 6. This Ordinance takes effect immediately upon its passage and adoption on second reading.

PASSED, APPROVED AND ADOPTED ON FIRST READING on the ____ day of _____, 2020.

PASSED, APPROVED AND ADOPTED ON SECOND READING, AND SIGNED, on the ____ day of _____, 2020.

Attest: _____
City Secretary (Seal)

Signed: _____
Mayor

Recommended: _____
City Manager

Approved as to legal form: _____
City Attorney

Appendix A

Sec. 18-62. - Curbs, gutters, sidewalks.

(a) *Required for major development or substantial improvement.*

(1) It shall be the duty of each permittee for any major development or any substantial improvement (as those terms are defined by Sections 1-13 and 18-272, of the Code, respectively) to provide new sidewalks along all streets abutting the building site (front, side and rear), including streets outside the City limits. Such sidewalks are required to satisfy the criteria contained in Chapter 70 of this Code as well as the Texas Accessibility Standards.

(2) It shall be the duty of each permittee that damages or removes any previously existing curb or gutter along any street abutting the building site to replace or repair such street or gutter.

(b) *Exceptions.*

(1) No sidewalk shall be required to be installed by a permittee on a building site if the sidewalk did not previously exist on the building site.

(2) The foregoing exception does not limit the authority of the City Council to require sidewalks under Chapter 70 of this Code or other applicable regulations.

(c) *Permit details.* The building permit application for each major development or substantial improvement must clearly illustrate the work necessary to comply with this section, and all required work on sidewalks, curbs and gutters must be completed within the time allowed for completion of the major development or substantial improvement.

Appendix B

Article III, Driveways and Sidewalks.

Sec. 70-58. - Sidewalks required.

Sidewalks are required in the City and shall be designed in accordance with the requirements of this Code, the City's Standard Driveway and Sidewalk Details attached as Appendix A to this Article and the Texas Accessibility Standards.

Sec. 70-59. - Change of street, sidewalk grade or line.

This section applies to projects where the City changes or alters the lines or grades of streets or sidewalks. The City may make such changes without liability to abutting owners or others on the part of the City by reason of said change. If the line or grade of a sidewalk is changed, but is in good condition and does not, in the opinion of the building official require entire reconstruction, the owner or owners of the abutting property may be given notice to:

- (1) Break said sidewalk back to a point fixed by the building official; and
- (2) Remove the broken portion and reconstruct said portion on the line and grade determined by the building official, at the cost of said owner. This work may be required, and the cost may be assessed, in the same manner as other work on sidewalks.

Sec. 70-60. – General Driveway and Sidewalk Requirements.

- (a) Where there are tree canopies overhanging any portion of a sidewalk to be constructed, a root protective layer of 6 mil poly shall be placed on top of the ground under the rebar to protect any tree root system that could be damaged by the sidewalk concrete. No tree roots of 1-inch diameter or larger shall be cut or damaged by the sidewalk construction without approval of the Urban Forester.
- (b) No water meters, water values, hydrant valves or cleanouts shall be installed in paved areas unless approved in writing by the Building Official.
- (c) On side street entry garages, the garage door must be a minimum of 18 feet from the closest property line.
- (d) Any driveway parking space required by the City's Zoning Code shall not encroach into the street right-of-way.
- (e) Sidewalks shall run parallel to the curb and be located at or as near the property line as possible unless otherwise approved in writing by the Building Official.

Appendix A

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Sec. 18-62. - Curbs, gutters, sidewalks.

(a) *Required for major development, remodeling, or substantial improvement.*

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(1) It shall be the duty of each permittee for any major development or any ~~major remodeling~~ substantial improvement (as those terms are defined by Sections 1-13 and 18-272, of the Code, respectively) to:

(1) ~~Provide~~ provide new sidewalks along all streets abutting the building site (front, side and rear), including streets outside the ~~city~~ City limits, ~~meeting all~~. Such sidewalks are required to satisfy the criteria for formal acceptance by the city for maintenance (see chapter contained in Chapter 70 of this Code) and other applicable regulations; and as well as the Texas Accessibility Standards.

(2) ~~Replace or repair all previously existing curbs and gutters along streets abutting the building site (front, side and rear) (including streets outside the city limits), so that, if practicable, such facilities will function like new facilities and will appear to be sound. In addition, for any site for which the building official certifies that an official city sidewalk plan is being prepared but the actual construction has not yet occurred, the permittee and the owner of the site must jointly sign and deliver to the city a formal acknowledgment that:~~

a. ~~They are aware that the plan is being prepared;~~

b. ~~They agree to adjust, remove and replace all sidewalks abutting the site (including any related modifications to curbs and gutters), including existing and new, to conform to the plan when it is adopted; and~~

e. ~~Such obligation shall "run with the land" and bind future owners of the site.~~

~~Such work shall be done promptly upon receipt of notice from the city. The notice must specify the work necessary to conform to the plan. Note: See the special provision for interim waivers of this requirement, in subsection (d).~~

~~(b)~~ (2) It shall be the duty of each permittee that damages or removes any previously existing curb or gutter along any street abutting the building site to replace or repair such street or gutter.

(b) *Exceptions.*

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(1) ~~No sidewalk is~~ shall be required ~~along the rear of~~ to be installed by a permittee on a building site containing at least 5,000 square feet and used for single family (detached) residential purposes, if the rear lies along a major thoroughfare, and there are no existing sidewalks along the same side of the major thoroughfare within 50 feet of the site in question.

(2) ~~If there is any existing sidewalk which can be preserved or repaired so that it will meet all criteria for formal acceptance by the city for maintenance (see chapter 70), function as a new~~

facility and will appear to be sound, the building official may allow it to be used instead of new construction.

(3) — In the case of a major remodeling, any required sidewalk may be omitted if its fair market value would exceed ten percent of the fair market value of the other remodeling work.

(4) — A sidewalk, curb or gutter is did not required if previously exist on the building official determines it would cause a drainage problem or similar condition site.

(5) — A curb or gutter is not required if the building official determines that an official city plan calls for installation, removal or reconstruction of the particular facility within five years.

(6) — A sidewalk is not required at a specific place if the building official determines that an official city sidewalk plan specifically calls for no sidewalk at that place. Example: An adopted sidewalk plan calling for narrow street sections, with sidewalks on one side only.

(7) — (2) The foregoing exceptions do exception does not limit the authority of the city council City Council to require sidewalks under chapter Chapter 70 of this Code or other applicable regulations.

(c) *Permit details.* The building permit application for each major development or ~~major remodeling~~ substantial improvement must clearly illustrate the work necessary to comply with this section, and all required work on sidewalks, curbs and gutters must be completed within the time allowed for completion of the major development or ~~major remodeling~~ substantial improvement.

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(d) — *Interim waivers.* The building official shall waive the requirements of this section for providing, replacing and repairing sidewalks (including any related modifications to curbs and gutters), if:

(1) — An official city sidewalk plan is being prepared for the site in question, but the actual construction has not yet occurred;

(2) — The cost of compliance with those requirements, as estimated by the building official, has been deposited by the permittee or owner into a special fund maintained for that purpose by the director of finance; and

(3) — The permittee and the owner of the site jointly sign and deliver to the city a formal acknowledgment that:

a. — They have requested a waiver under this subsection;

b. — The owner agrees to provide any easement that may be reasonably necessary to allow construction of sidewalks under the official city sidewalk plan, while avoiding unnecessary harm to qualified trees on or near the site;

c. — Such obligation shall "run with the land" and bind any future owners of the site; and

d. — They understand the provisions for refunds (if any).

~~The director of finance shall maintain all funds deposited under this section and shall use them, together with any interest earnings, only to design, construct, repair and replace sidewalks (including any related modifications to curbs and gutters) in the immediate area of the site for which they were deposited. No refunds shall be made. Exception: If the official city sidewalk plan, as adopted and constructed, provides no sidewalk on a street adjacent to the site in question, the amount deposited for a sidewalk on that street shall be refunded to the then owner of the site, but only if that owner applies in writing to the director of finance within four years following completion of the city's sidewalk construction at the site and provides proof of ownership. The refund shall include interest earnings, as estimated by the director of finance.~~

~~(Code 2003, § 6.411)~~

Appendix B

Article III, Driveways and Sidewalks.

Sec. 70-58. - Sidewalks required.

~~(a) — In general. Persons are required to construct sidewalks in the circumstances required by chapter 18. In addition, the city council has the authority to order certain work on sidewalks in accordance with this chapter. Exception: This article does not apply to sidewalks that have been formally accepted by the city for maintenance (see section 70 2, above), unless they are damaged or destroyed by an act or omission of:~~

- ~~(1) — The abutting owner or other person in control of the abutting property;~~
- ~~(2) — A tenant, invitee, contractor, officer, agent, employee or other person acting with the consent or approval of either the abutting owner or a person in control of the abutting property.~~

~~(b) — Ordering work. If, after a public hearing, the city council finds it necessary that sidewalks be constructed, reconstructed, repaired or brought to grade in the street area abutting the side, front or rear of any property in the city, the city council may:~~

- ~~(1) — Designate the locations; and~~
- ~~(2) — Order that the work be done within a specified time period.~~

~~(c) — Notice to owners. If the city council orders such work, the building official shall notify the owners of the abutting property. The notice shall include a copy of the order and specifications for the work promulgated by the building official or public works director.~~

~~(d) — Performing the work. Each owner who receives such a notice shall have the specified time period in which to cause the work to be done. If the work has not been done when the time period expires, the city may:~~

- ~~(1) — Cause the work to be done (or completed, in case it is partially done); and~~
- ~~(2) — Determine the reasonable cost and assess it to the abutting owner.~~

~~The work may be done (or completed) by city forces or by a city contractor.~~

~~(e) — Costs; lien. The city council's determination of cost is conclusive. The cost of the work shall:~~

- ~~(1) — Be billed to the abutting owner;~~
- ~~(2) — Be payable, with interest, at the city's finance office;~~
- ~~(3) — Shall bear legal interest from the date payment is made for the work; and~~

~~(4) — Shall be a lien against abutting property.~~

~~(f) — Recorded statement. The mayor may make a statement, under oath, showing the cost of such work done in a street area abutting a parcel of property. The statement may include more than one parcel. The statement shall give the name of each owner of abutting property (as known to the mayor) and a description of each parcel sufficient to identify it. No mistake of name of the owner or description of the parcel shall vitiate or defeat any claim for payment or lien. The statement shall be filed for record in the office of the county clerk. When filed for record, it shall:~~

~~(1) — Fix the amount stated as a preferred lien against each respective parcel of property, superior to all other liens, claims or titles except lawful taxes;~~

~~(2) — Constitute a personal demand against the owner of each parcel; and~~

~~(3) — Be prima facie evidence that all necessary preliminary things have been done to establish each lien and the amount thereof.~~

~~(g) — Enforcement. Any such lien may be foreclosed by the institution of suit in any court of competent jurisdiction in the county. If the claim is placed in the hands of an attorney for collection, or if suit is filed thereon, the costs thereof including a reasonable attorney's fee, shall be added thereto.~~

~~(Code 2003, § 19.301)~~

~~Sidewalks are required in the City and shall be designed in accordance with the requirements of this Code, the City's Standard Driveway and Sidewalk Details attached as Appendix A to this Article and the Texas Accessibility Standards.~~

Sec. 70-59. - Change of street, sidewalk grade or line.

This section applies to projects where the ~~city~~City changes or alters the lines or grades of streets or sidewalks. The ~~city~~City may make such changes without liability to abutting owners or others on the part of the ~~city~~City by reason of said change. If the line or grade of a sidewalk is changed, but is in good condition and does not, in the opinion of the building official require entire reconstruction, the owner or owners of the abutting property may be given notice to:

(1) Break said sidewalk back to a point fixed by the building official; and

(2) Remove the broken portion and reconstruct said portion on the line and grade determined by the building official, at the cost of said owner. This work may be required, and the cost may be assessed, in the same manner as other work on sidewalks.

~~(Code 2003, § 19.302)~~

~~Sec. 70-60. – General Driveway and Sidewalk Requirements.~~

~~(a) Where there are tree canopies overhanging any portion of a sidewalk to be constructed, a root protective layer of 6 mil poly shall be placed on top of the ground under the rebar to protect any tree root system that could be damaged by the sidewalk concrete. No tree roots of 1-inch~~

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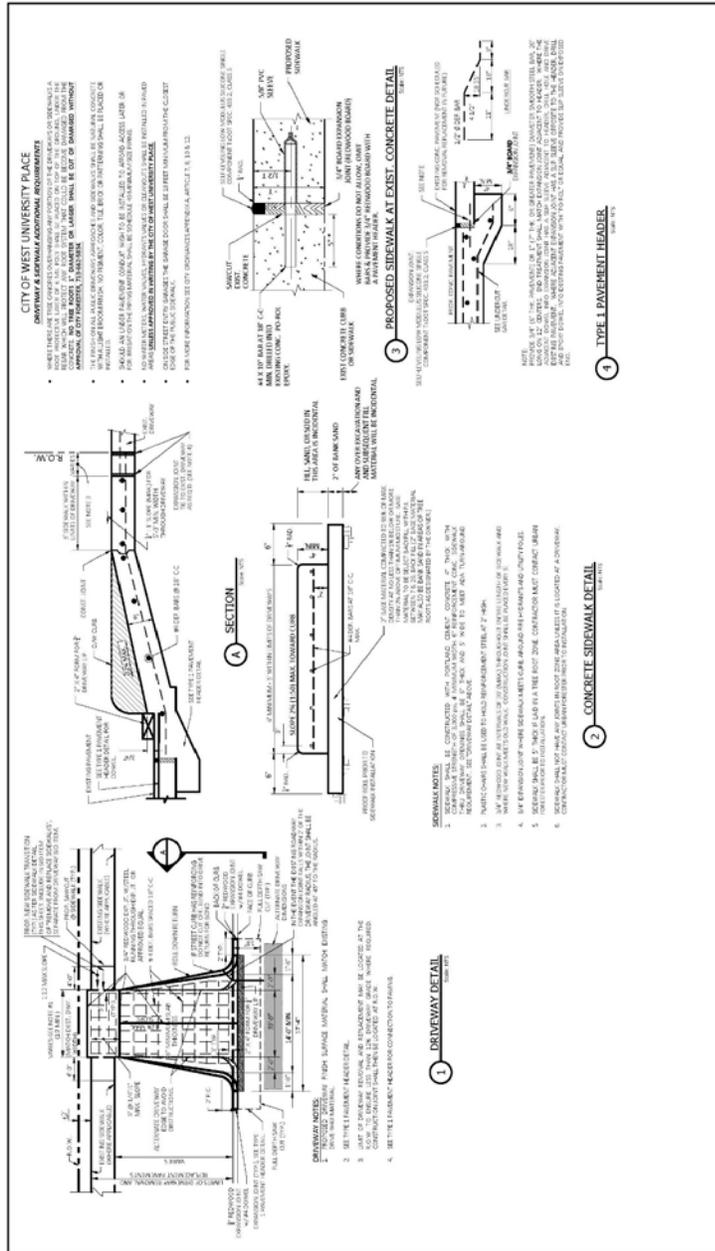
diameter or larger shall be cut or damaged by the sidewalk construction without approval of the Urban Forester.

(b) No water meters, water valves, hydrant valves or cleanouts shall be installed in paved areas unless approved in writing by the Building Official.

(c) On side street entry garages, the garage door must be a minimum of 18 feet from the closest property line.

(d) Any driveway parking space required by the City's Zoning Code shall not encroach into the street right-of-way.

(e) Sidewalks shall run parallel to the curb and be located at or as near the property line as possible unless otherwise approved in writing by the Building Official.



City of West University Place, Texas
Standard Driveway and Sidewalk Details





The City of West University Place

A Neighborhood City

CITY COUNCIL

Bob Higley, Mayor
Kevin Trautner, Mayor Pro Tem
John P. Barnes, Councilmember
Lauri Lankford, Councilmember
Ed Sobash, Councilmember

STAFF

David J. Beach, City Manager
Alan Petrov, City Attorney
Thelma Gilliam, City Secretary

CITY COUNCIL ACTION MINUTES

The City Council of the City of West University Place, Texas, met on **Monday, February 10, 2020**, in the Municipal Building, 3800 University, West University Place.

1. Call Workshop to Order

Mayor Higley called the meeting to order at 5:30 p.m. All Council present. City Manager Beach, City Secretary Gilliam, Public Works Director Barrera, and City Attorney Petrov were also present.

Mike Shelton, an engineer with Kimley-Horn, was also present.

2. WWTP Efficiency Study

Matters related to WWTP Efficiency Study. *Recommended Action: Discuss and provide staff direction, if desired. Mr. Gerardo Barrera, Public Works, Director.*

Mr. Mike Shelton with Kimley-Horn presented a report on the findings related to the Wastewater Treatment Plant (WWTP) Efficiency Study.

A copy of the presentation is on file in the City Secretary's office.

3. Adjourn Workshop

With no further discussion, Mayor Higley adjourned the Workshop at 6:16 p.m.

Regular Meeting (6:30 PM in the Council Chambers)

4. Regular Meeting Called to Order

Mayor Higley called the regular meeting to order at 6:30 p.m. Council and Staff in attendance: Mayor Pro Tem Trautner, Councilmembers Barnes, Lankford and Sobash, City Manager Beach, City Attorney Petrov, City Secretary Gilliam, Public Works Director Barrera, and Police Chief Walker

Also present were Chair of the Zoning and Planning Commission Richard Wilson, David Beard with Kendig Keast Collaborative, and Eleni Pappas with Traffic Engineers, Inc.

5. Pledge of Allegiance

Boy Scout Robert Day, Troop 266, led the Pledge of Allegiance.

6. **Public Comments**

This was an opportunity for citizens to speak to Council relating to agenda and non-agenda items.

David Cole, 4104 Cason, spoke regarding the city-wide speed and safety study. He said the proposal seems to be a solution in search of a problem and said he would rather see funds spent on innovative ways for traffic calming.

Alida Drewes, 6112 Fordham, spoke on several topics including traffic study, bees, senior assistance and exemptions, and pesticides.

Eddie Matthews, 5906 Fordham, spoke regarding the city-wide speed and safety study. He recommended that the consultants examine and make recommendations on certain safety issues such as parking on dangerous curbs and double-parking by contractors on narrow streets.

Fiona Gilmore, 6624 Rutgers, spoke regarding the traffic study. She said she thinks there needs to be a study and is in favor of reduced speed limits or speed bumps.

7. **Subdivision Ordinance**

Matters related to an ordinance amending Chapter 74 of the Code of Ordinances relating to subdivisions. *Recommended Action: Approve ordinance on the first of two readings.* **Mr. Gerardo Barrera, Public Works Director and Mr. Richard Wilson, ZPC Chair**

Mr. David Beard with Kendig Keast Collaborative presented and stated that the comments mentioned and discussed at the January 27, 2020 meeting, and other minor revisions that were not specifically discussed, have been captured and included in this proposed ordinance.

Councilmember Lankford moved to approve the ordinance with the changes discussed amending Chapter 74 of the Code of Ordinances, Subdivisions. Councilmember Barnes seconded the motion.

MOTION PASSED.

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

8. **Bee Ordinance**

Matters related to the first reading of an ordinance relating to bees. *Recommended Action: Approve ordinance on the first of two readings.* **Mr. Gerardo Barrera, Public Works Director.**

Public Works Director Barrera presented and said that the comments mentioned by Council at the previous meeting have been incorporated and included in the proposed ordinance.

Mayor Pro Tem Trautner stated that he had originally proposed striking “or side-yard setback” on the hive location, but upon further thought he would like to request that the wording be put back in (at the end of Section 14-102).

In response to Councilmember Lankford’s suggestion that there be a way for a person to revoke his or consent allowing a neighbor to have bee hives, Mayor Pro Tem Trautner suggested adding “may be revoked by the consent granting neighbor at any time” to the end of Section 14-105. City Attorney Petrov stated that would suffice.

Councilmember Lankford noted that in the middle of Section 14-105 it references Section 14-02, which should be Section 14-102.

Mayor Pro Tem Trautner moved to approve the ordinance relating to bees with the recommended amendments on the first of two readings. Councilmember Barnes seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

9. **Water System Disinfection Upgrade**

Matters related to approving contract for Water Disinfection Upgrades. *Recommended Action: Approve contracts and authorize the city manager to execute the contracts.* **Mr. Gerardo Barrera, Public Works Director**

Councilmember Barnes moved to approve awarding a contract to Ixom Watercare Inc., for the purchase of the solar power mixers in the amount of \$202,000 and authorize the city manager to execute the contract for the purchase of the equipment. Mayor Pro Tem Trautner seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

10. **Weir Replacement**

Matters related to approving a contract for Clarifier Weir Replacement at the Wastewater Treatment Plant. *Recommended Action: Approve contract and authorize the city manager to execute the contract.* **Mr. Gerardo Barrera, Public Works Director.**

Mayor Pro Tem Trautner moved to award the contract to JTR Construction for removal and replacement of the weirs in the amount of \$600,000 and to authorize the city manager to execute the contract. Councilmember Barnes seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

11. **City-wide Speed and Safety Study**

Matters related to implementing a city-wide speed and safety study. *Recommended Action: Approve contract and authorize the city manager to execute the contract.* **Mr. Gerardo Barrera, Public Works Director.**

Anne Furse, 6430 Wakeforest, spoke in favor of commissioning the study.

Ms. Eleni Pappas, Traffic Engineers Inc., noted this study will provide solutions not only for today but will give the City tools that can be put in a “toolbox” for use in the future.

Mayor Pro Tem Trautner moved to approve contract with Traffic Engineers Inc., for the city-wide speed and safety study. Councilmember Barnes seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None

Absent: None

12. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

A. City Council Minutes

Approve the City Council Workshop Minutes of January 27, 2020.

B. Weeds/Property Condition

Matters related to an ordinance regarding weeds/property condition. *Recommended Action: Approve ordinance on second and final reading. Mr. Gerardo Barrera, Public Works and Mr. Richard Wilson, ZPC Chair.*

C. Wastewater Treatment Plant (WWTP) Efficiency Study Acceptance

Matters related to accepting the WWTP Efficiency Study. *Recommended Action: Accept WWTP Efficiency Study. Mr. Gerardo Barrera, Public Works Director.*

Councilmember Lankford removed Item 12(B) from the Consent Agenda for discussion and City Manager Beach pulled Item 12(C) from the Consent Agenda to be brought back before Council at a later date.

Councilmember Lankford moved to approve the Minutes – 12(A). Councilmember Sobash seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

Councilmember Lankford voiced concern regarding Sec. 42-49(a)(4), which if approved as proposed would read: *Any brush or rubbish allowed to remain in one place for the greater of 72 hours or the number of days until the next scheduled yard waste pickup day.* She said her concern is that it would allow trash to be able to sit on a person's property 7 days a week every week.

After discussion, Councilmember Lankford moved to approve the ordinance with a change to (a)(4) to say the *lesser* of 72 hours or the number of days until the next scheduled yard waste pickup day. Councilmember Barnes seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

13. Recess Regular Meeting to Convene Executive Session

Mayor Higley recessed the regular meeting at 7:40 p.m. to convene executive session per Sections 551.071 and 551.072 of the Texas Government Code.

14. Real Property

Notice is hereby given that the City Council will convene into executive session in accordance with the following provisions of Chapter 551 of the Texas Government Code:

City Council met in Executive Session per Sections 551.071 and 551.072 of the Texas Government Code.

Executive Session closed at 8:15 p.m.

15. Reconvene Regular Session

Reconvene regular meeting and take any action resulting from executive session.

Mayor Higley reconvened the regular session at approximately 8:13 p.m.

16. Adjourn Regular Meeting

With no other matter before council, the meeting will adjourn.

With no other business before Council, Councilmember Barnes moved to adjourn the meeting 8:15 p.m. Councilmember Lankford seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

A complete audio of this City Council meeting is available on the City's website or contact the City Secretary's office for a copy.

Prepared by: City Secretary Thelma A. Gilliam

Approved by City Council on: _____



AGENDA MEMO

Business of the City Council
City of West University Place, Texas

Meeting Date	2.24.2020	Agenda Item	9B
Approved by City Manager	Yes	Presenter(s)	G. Barrera, Director
Reviewed by City Attorney	Yes	Department	Public Works
Subject	Bee Ordinance		
Attachments	<ol style="list-style-type: none"> 1. Ordinance 2. Appendix A – Redlined 		
Financial Information	Expenditure Required:		Not Applicable
	Amount Budgeted:		Not Applicable
	Account Number:		000-0000-0000
	Additional Appropriation Required:		Not Applicable
	Additional Account Number:		Not Applicable

Executive Summary

After multiple workshops and public meetings, staff has drafted the attached ordinance amending Chapter 14 of the Code of Ordinances, which proposes the addition of Article IV to regulate beekeeping.

Article IV consists of the following sections:

- Section 14-100 – Definitions
- Section 14-101 – Apiary Maintenance
- Section 14-102 – Hive Location
- Section 14-103 – Construction of Flyway Barrier
- Section 14-104 – Hive Density
- Section 14-105 – Regulation with the City
- Section 14-106 – Inspection or Enforcement by Code Enforcement Officer
- Section 14-107 – Destruction of Wild or Abandoned Bees
- Section 14-108 – Enforcement Procedure

The amendments to Chapter 14 allow for a comprehensive approach to beekeeping in an effort to attain compliancy.

The proposed draft includes Council direction from its January 27, 2020 workshop, as well comments from the February 10, 2020 meeting.

Recommended Action

The Zoning and Planning Commission and staff recommend that City Council approve the ordinance amending Chapter 74-Subdivisions on the second and final reading.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS; AMENDING CHAPTER 14, ANIMALS OF THE CODE OF ORDINANCES OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, BY ADOPTING A NEW ARTICLE IV, BEES, FOR THE PURPOSE OF REGULATING THE KEEPING OF BEES AND CONTAINING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, THAT:

Section 1. Chapter 14, Animals, of the Code of Ordinances of the City of West University Place, Texas is amended by the adoption of a new Article IV, Bees, for the purpose of regulating the keeping of the bees, to read as set out in Appendix A, attached hereto. All other portions of Chapter 14 of the Code of Ordinances not specifically amended hereby remain in full force and effect.

Section 2. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 3. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 4. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

Section 5. This Ordinance takes effect immediately upon its passage and adoption on second reading.

PASSED, APPROVED AND ADOPTED ON FIRST READING on the ____ day of _____, 2020.

PASSED, APPROVED AND ADOPTED ON SECOND READING, AND SIGNED, on the ____ day of _____, 2020.

Attest: _____
City Secretary (Seal)

Signed: _____
Mayor

Recommended: _____
City Manager

Approved as to legal form: _____
City Attorney

Appendix A

ARTICLE IV, Bees.

Section 14-100. DEFINITIONS.

Unless the context requires a different meaning, the following terms, when used in this Article, have the meaning indicated below:

- (a) APIARY means a place where bees are kept.
- (b) BEE means any stage of the common domestic honey bee, *Apis mellifera* species.
- (c) HIVE means a single Langstroth type box or similar structure intended to house bees.
- (d) PARCEL OF LAND means a contiguous piece of land under common ownership.

Section 14-101. APIARY MAINTENANCE.

- (a) A person shall keep bees in a Langstroth-type box or similar structure with removable frames that is maintained in sound and usable condition.
- (b) A person shall provide a source of water to the bees to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.
- (c) A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

Section 14-102. HIVE LOCATION.

A person may not locate a hive within 10 feet of the property line of a parcel of land, as measured from the nearest point of the hive to the property line, nor may a hive be located within a person's front yard or side yard set back.

Section 14-103. CONSTRUCTION OF FLYWAY BARRIER.

- (a) A person who keeps a hive within 25 feet of the property line of a parcel of land, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line.
- (b) A flyway barrier created under this section must:

- (1) consist of either a solid wall, fence, dense vegetation, or combination of these materials at least 6 feet high; and
- (2) extend at least 10 feet beyond the hive on each end.

Section 14-104. HIVE DENSITY.

A person may not keep more than two hives on a parcel of land.

Section 14-105. REGISTRATION WITH THE CITY; CONSENT OF NEIGHBOR.

Any person who keeps a hive within the City must register with the City providing the hive location and the owner's name and contact information. Compliance with the 10 foot distance requirement of Section 14-102 is not required where such person obtains the written consent of the current neighbor contiguous to the property line in question and such written consent is on file with the City. For purposes of this Section, if such neighbor moves, current means that a new written consent must be obtained from the new occupant of the contiguous property and filed with the City. Further, such consent may be revoked at any time.

Section 14-106. INSPECTION OR ENFORCEMENT BY CODE ENFORCEMENT OFFICER.

- (a) The Code Enforcement Officer may inspect an apiary between the hours of 8:00 a.m. and 5:00 p.m. If the owner of the apiary resides on the parcel of land or the owner's name is marked on the hive, the Code Enforcement Officer shall attempt to give the owner notice of inspection.
- (b) The Code Enforcement Officer may investigate a complaint of a violation of this Article.
- (c) For enforcement actions under this Article, the Code Enforcement Officer may presume that the person who owns or has a present right of possession or control of a parcel of land on which a hive is located is the owner of the hive. A person may rebut the presumption of ownership by presenting the Code Enforcement Officer with a written agreement identifying the name, address, and telephone number of the owner of the hive.

Section 14-107. DESTRUCTION OF WILD OR ABANDONED BEES.

- (a) The Code Enforcement Officer will order relocation of bees described in Subsection (b)(1)—(3) if the relocation of the bees can be done without threatening human or animal health or interfering with the normal use and enjoyment of public or private property.

- (b) If relocation of bees under Subsection (a) is not possible then, without notice and a hearing, the Code Enforcement Officer may order destruction of: (1) bees not residing in a hive; (2) a swarm of bees; or (3) bees residing in an abandoned standard or man-made hive.

Section 14-108. ENFORCEMENT PROCEDURE.

- (a) If the Code Enforcement Officer finds that a person has committed a violation of this Article, the Code Enforcement Officer may: (1) issue an enforcement order including corrective action; (2) order that the person's bees be relocated, destroyed or removed not later than the 20th day after the date of the decision; and (3) prohibit the person from locating a hive on the same parcel of land for a period of two years following the date of the decision.
- (b) The Code Enforcement Officer may issue a warning if the Code Enforcement Officer determines that a person did not intentionally commit a violation and that the person has implemented corrective action sufficient to cure the alleged violation.
- (c) Failure to comply with an enforcement order issued under this Article is a violation of this Code and shall carry a penalty of up to \$500 per day that such violation continues.

Appendix A

ARTICLE IV, Bees.

Section 14-100. DEFINITIONS.

Unless the context requires a different meaning, the following terms, when used in this Article, have the meaning indicated below:

- (a) APIARY means a place where bees are kept.
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- (b) A person shall provide a source of water to the bees to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.
- (c) A person shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

Section 14-102. HIVE LOCATION.

A person may not locate a hive within 10 feet of the property line of a parcel of land, as measured from the nearest point of the hive to the property line, nor may a hive be located within a person's front yard [or side yard set back](#).

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- (a) A person who keeps a hive within 25 feet of the property line of a parcel of land, as measured from the nearest point of a hive to the property line, shall establish and maintain a flyway barrier parallel to the property line.
- (b) A flyway barrier created under this section must:

- (1) consist of either a solid wall, fence, dense vegetation, or combination of these materials at least 6 feet high; and
- (2) extend at least 10 feet beyond the hive on each end.

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A person may not keep more than two hives on a parcel of land.

Section 14-105. REGISTRATION WITH THE CITY; CONSENT OF NEIGHBOR.

Any person who keeps a hive within the City must register with the City providing the hive location and the owner's name and contact information. Compliance with the 10 foot distance requirement of Section 14-02102 is not required where such person obtains the written consent of the current neighbor contiguous to the property line in question and such written consent is on file with the City. For purposes of this Section, if such neighbor moves, current means that a new written consent must be obtained from the new occupant of the contiguous property and filed with the City. [Further, such consent may be revoked at any time.](#)

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- (b) The Code Enforcement Officer may investigate a complaint of a violation of this Article.
- (c) For enforcement actions under this Article, the Code Enforcement Officer may presume that the person who owns or has a present right of possession or control of a parcel of land on which a hive is located is the owner of the hive. A person may rebut the presumption of ownership by presenting the Code Enforcement Officer with a written agreement identifying the name, address, and telephone number of the owner of the hive.

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- (b) The Code Enforcement Officer may issue a warning if the Code Enforcement Officer determines that a person did not intentionally commit a violation and that the person has implemented corrective action sufficient to cure the alleged violation.
- (c) Failure to comply with an enforcement order issued under this Article is a violation of this Code and shall carry a penalty of up to \$500 per day that such violation continues.

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AGENDA MEMO
 Business of the City Council
 City of West University Place, Texas

Meeting Date	2.24.2020	Agenda Item	9C
Approved by City Manager	Yes	Presenter(s)	G. Barrera, Director
Reviewed by City Attorney	Yes	Department	Public Works
Subject	Subdivisions Update Ordinance		
Attachments	1. Ordinance 2. Appendix A – Redlined		
Financial Information	Expenditure Required:		Not Applicable
	Amount Budgeted:		Not Applicable
	Account Number:		000-0000-0000
	Additional Appropriation Required:		Not Applicable
	Additional Account Number:		Not Applicable

Executive Summary

In 2019, the City contracted with Kendig Keast Collaborative (KKC) to review Chapter 74 of the Code of Ordinances with the purpose of reorganizing the Chapter into a more intuitive and easier to use format, and ensure it did not conflict with any Chapters already in the City Ordinances. Key areas revised in the Chapter include:

- Providing cross-referencing when appropriate to link Chapter 74 with the rest of the City Ordinances;
- Developing an Enforcement and Remedies Article;
- Adding provisions for Text Amendments and Appeals;
- Updating, consolidating, and ensuring definitions do not conflict with other City Ordinances;
- Ensuring no duplication between Chapter 74 and other Chapters of City Ordinance; and
- Formalizing Development Review Process

On January 9, 2020, KKC presented the proposed Chapter 74 to the Zoning and Planning Commission (ZPC) for review and discussion. The City Attorney also reviewed the proposed changes and ensured recent State legislative changes were included in the new draft. After minor revisions, the ZPC approved the amendments to Chapter 74 and requested final approval from City Council.

Staff has incorporated the changes per Council direction at the January 27, 2020 and February 10, 2020 meeting

Recommended Action

The Zoning and Planning Commission and staff recommend that City Council approve the ordinance amending Chapter 74-Subdivisions on the second and final reading.

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS; REPEALING CHAPTER 74, SUBDIVISIONS, OF THE CODE OF ORDINANCES OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, AND ADOPTING A NEW VERSION OF CHAPTER 74, SUBDIVISIONS AND CONTAINING FINDINGS AND PROVISIONS RELATING TO THE SUBJECT.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST UNIVERSITY PLACE, TEXAS, THAT:

Section 1. Chapter 74, Subdivisions, of the Code of Ordinances of the City of West University Place, Texas is repealed in its entirety and replaced by the adoption of a new Chapter 74, Subdivisions as set out in Appendix A, attached hereto.

Section 2. All ordinances and parts of ordinances in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 3. If any word, phrase, clause, sentence, paragraph, section or other part of this Ordinance or the application thereof to any person or circumstance, shall ever be held to be invalid or unconstitutional by any court of competent jurisdiction, neither the remainder of this Ordinance, nor the application of such word, phrase, clause, sentence, paragraph, section or other part of this Ordinance to any other persons or circumstances, shall be affected thereby.

Section 4. The City Council officially finds, determines and declares that a sufficient written notice of the date, hour, place and subject of each meeting at which this Ordinance was discussed, considered or acted upon was given in the manner required by the Texas Open Meetings Act, as amended, and that each such meeting has been open to the public as required by law at all times during such discussion, consideration and action. The City Council ratifies, approves and confirms such notices and the contents and posting thereof.

Section 5. This Ordinance takes effect immediately upon its passage and adoption on second reading.

PASSED, APPROVED AND ADOPTED ON FIRST READING on the _____ day of _____, 2020.

Councilmembers Voting Aye:

Councilmembers Voting No:

Councilmembers Absent:

PASSED, APPROVED AND ADOPTED ON SECOND READING, AND SIGNED,
on the _____ day of _____, 2020.

Councilmembers Voting Aye:

Councilmembers Voting No:

Councilmembers Absent:

Attest: _____
City Secretary (Seal)

Signed: _____
Mayor

Recommended: _____
City Manager

Approved as to legal form: _____
City Attorney

Chapter 74, Subdivisions

Article I. Definitions and Interpretation	2
Article II. Purpose, Jurisdiction, and Applicability	4
Article III. Subdivision Standards	5
Article IV. Administrative Bodies	10
Article V. Standardized Development Procedures	12
Article VI. Plats.....	16
Article VII. Permits and Applications	21
Article VIII. Enforcement and Remedies.....	24

Article I. Definitions and Interpretation

Section 74-1 - Rules of Construction

- A. **Headings.** Section and subsection headings are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of this Chapter.
- B. **Conflict between Text and Tables.** In the case of any real or apparent conflict between the text of this Chapter and any illustration, figure, or table explaining the text, the text shall control.
- C. **Shall and May.**
 - 1. "Shall" is always mandatory.
 - 2. "May" is always discretionary.
- D. **Interpretation.** The provisions of this this Chapter shall:
 - 1. Be held to be minimum requirements;
 - 2. Be liberally construed in favor of the governing body; and
 - 3. Not be deemed a limitation or repeal of any other powers granted by state statute.
- E. **Word Tense.** Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

Section 74-2 - Definitions

Accessory shall mean a building, structure, or use that is lawfully permitted and subordinate to a lawfully permitted principal building, structure, or use on the same building site.

Administrative Official shall mean the City Manager or his designee to administer the regulations and provisions of this Chapter of the City's Code of Ordinances.

Applicant shall mean any owner of real property or their agent, dividing, proposing to divide land, consolidating, or proposing to consolidate land so as to constitute a Subdivision.

Block shall mean an area bounded by Street areas and occupied by or intended for occupancy by buildings.

City shall mean the City of West University Place, Texas.

City Council shall mean the City Council of the City of West University Place, Texas.

Consolidated Preliminary and Final Plat shall mean the process by which an Applicant can obtain Final Plat approval without having to first receive official Preliminary Plat approval.

Easement shall mean a granted right to a Person to use land owned by another for a specific purpose.

Final Plat shall mean the map or drawing on which an Applicant's plan of Subdivision is presented in final recordable form for approval by the ZPC.

Inactive Application shall mean an application that has been submitted to the City, however the application does not fully comply with the standards of this Chapter meaning that City Staff is unable to place it on a ZPC agenda for potential adoption.

Lot shall mean a contiguous area of land with boundaries established by a legal instrument such as a recorded deed, court order, or a recorded Plat, which is recognized as a separate legal entity for purposes of transfer of title. The term "Lot" does not include areas within Rights-of-Way and shall not be construed to allow the creation of Lots that are not lawfully created in conformance with the provisions of this Chapter.

Lot Line shall mean the line that demarcates the boundary of a Lot.

Minor Plat Amendment shall mean a type of Replat that can be approved administratively because the necessary edits being requested are of the type identified by TLGC Section 212.016, *Amending Plat*.

Permanent Drainage Easement shall mean a drainage Easement that has been granted to the City in perpetuity to control the drainage of stormwater off of a property.

Person shall mean a human being, partnership, corporation, sole proprietorship, representative, governmental entity, unincorporated business association or any other entity.

Plat shall mean a map or chart of a Subdivision including Replats.

Preliminary Plat shall mean the map or drawing on which an Applicant's plan of Subdivision is initially presented to the ZPC.

Replat shall mean a Plat representing land that has previously been included in a recorded Plat.

Right-of-Way shall mean area on, below, or above a Street, sidewalk, alley, waterway, or utility Easement in which a governmental body has a legal interest. The term does not include the wireless telecommunications.

Stale Application shall mean an Inactive Application for a Subdivision that has been submitted to the City not meeting the requirements necessary for approval and the Applicant has failed to address the City Staff and/or referral agency comments 90 days after the comments were forwarded to the Applicant.

Street shall mean a public Right-of-Way for vehicular traffic (including bicycles) whether designated a Street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, public roadway or as otherwise designated.

Subdivision shall mean the division or consolidation of a Lot or Tract of land into two or more Lots, sites or other divisions of the land for the purpose, whether immediate or future, of sale or building development.

Texas Local Government Code (TLGC) shall mean the most recent edition of the Texas Local Government Code, as amended.

Tract shall mean a portion of a Subdivision intended for development, typically being substantially larger than a Lot and intended for either large scale development, future Subdivision into smaller Lots, or preservation as open space.

Traffic Impact Analysis shall mean a study that prepared by a licensed professional traffic engineer or civil engineer in connection with a proposed land use application that forecasts, describes, and suggests ways of off-setting the traffic effects that will occur should the land use application be approved.

Zoning and Planning Commission (ZPC) shall mean the ZPC for the City of West University Place, Texas.

Article II. Purpose, Jurisdiction, and Applicability

Section 74-11 - Purposes

The purposes of this Chapter are to:

- A. Provide for the orderly and safe land development within the City;
- B. Promote the health, safety, and general welfare of the community;
- C. Ensure that new development is consistent with the City's most recently adopted Comprehensive Plan;
- D. Ensure that facilities to be accepted and maintained by the City are properly located and constructed; and
- E. Establish reasonable development restrictions that will neither infringe upon the Constitutions of the United States of America or the State of Texas nor create regulations that are arbitrary or capricious.

Section 74-12 - Jurisdiction

Unless otherwise noted all provisions of this Chapter apply within the municipal limits of the City of West University Place, Texas.

Section 74-13 - Applicability

- A. **When Applicable.** This Chapter is applicable whenever an application to subdivide or consolidate a Lot or Tract of property by means of a specific platting process as referenced in Article VI, *Plats* is officially submitted to the City.
- B. **When Not Applicable.** Land development applications and the process of entering into such applications as detailed elsewhere in the City's Code of Ordinances, such as Appendix A,

Zoning Ordinance and Chapter 18, *Buildings and Development*, have no bearing and/or applicability upon this Chapter unless otherwise cross-referenced.

Section 74-14 - Effective Date

The effective date of this Chapter is the same as the date of its official adoption by the City Council which is []

Section 74-15 - Consistency with Zoning and the City Plans

A. Zoning.

1. *Land Use.* No land contained in any proposed Subdivision shall be reserved for any land use other than a use permitted within the zoning district where the property is located. (See Appendix A, *Zoning Ordinance*).
2. *Rezoning.* No Subdivision approval shall be approved that requires a change in zoning until the rezoning request is officially approved in compliance with Appendix A, *Zoning Ordinance*.

B. Plans. All Subdivisions shall be consistent with the City's plans including, but not limited to, the City's most recently adopted Comprehensive Plan and Drainage Plan.

Section 74-16 - Transition Standards

A. Development Approvals Predating the Effective Date.

1. It is the City's intent to respect existing development approvals. Approved development may be carried out within the scope of the development approval, including applicable standards in effect at the time of approval, provided that the approval was valid and has not lapsed per Section 74-54, *Inactive and Expired Applications*.
2. This Chapter does not prevent the City from enforcing any provision of Chapter 18, *Buildings and Development*, or any other chapter of the City's Code of Ordinances.

B. Pending Applications.

1. Except as provided in subsection (B)2 below, each application for development approval shall be evaluated only by the adopted ordinances and technical regulations in effect at the time that each complete application is submitted.
2. Applications that are not pursued with due diligence may expire pursuant to Section 74-54, *Inactive and Expired Applications*.

Article III. Subdivision Standards

Section 74-21 - Lots

A. Lot Size. All Lots and Tracts must conform to the regulations of Appendix A, Section 5-102, *Division of Building Sites*.

B. Lot Shape.

1. Lots shall be as rectangular as possible.
2. Irregular shaped Lots shall have sufficient width at the building line to meet the minimum width requirements of Appendix A, Table 5-1, *Building Site Dimensions*.

C. Lot Lines. Side Lot Lines shall be at right angles or as close to right angles as possible.

D. Street Frontage. Each Lot shall have adequate access to an existing or proposed public Street with the width of the Street area to be not less than 40 feet.

E. Lot Consolidation. Lots may be consolidated provided that:

1. The minimum requirements of Appendix A, Section 5-102, *Division of Building Sites*, have been met; and
2. Upon completion of any and all work permits none or only one of the applicable Lots has a primary habitable building located on it.

F. Lot Subdivision on Previously Consolidated Lot. Lots that have previously been consolidated may be subsequently subdivided again provided that the newly created Lots:

1. Satisfy the requirements of this Chapter and *Appendix A, Zoning Ordinance*; and
2. Neither of the newly proposed Lots would have an Accessory building, Accessory use, or Accessory structure left on the property without a primary building.

G. Through Lots. See Appendix A, *Zoning Ordinance*, Table 7-2, *Yards (or 'Setbacks')*: Note 1: *Through Lots or Building Sites*.

Section 74-22 - Building Sites

See Appendix A, *Zoning Ordinance*, Article 5, *Building Sites* and Section 18-53, *Building Sites*.

Section 74-23 - Blocks

- A. Minimum Block Length.** Block length shall be a minimum of 500 feet.
- B. Maximum Block Length.** Blocks shall not be more than 1,200 feet in length.

Section 74-24 - Streets and Public Rights-of-Way

- A. Right-of-Way Width.** The City shall maintain the existing Right-of-Way width necessary to provide the paved Streets and sidewalks that presently exist throughout the City.
- B. Street Pavement Width.** The City shall maintain the existing Street pavement width necessary to maintain the existing Street network throughout the City.
- C. Alleys.** The creation of new alleys is prohibited.
- D. Private Streets.** The creation of new private Streets is prohibited.

- E. **Street Lighting.** Street lighting shall be provided and meet the standards as provided in the *City's Construction Design Manual*.
- F. **Street Name and Traffic Signs.** All Street name and traffic signs shall be provided by the City.
- G. **Traffic Impact Analysis.**
 - 1. Where a proposed new development may create either increased traffic, intersection congestion, or any transportation concern, the City may require the Applicant to fund a Traffic Impact Analysis.
 - 2. Should the Traffic Impact Analysis determine that it is necessary, the Applicant may be required to share with the City the cost of any transportation improvement as is roughly proportional to the new development.

Section 74-25 - Access Management

See Appendix A, *Zoning Ordinance*, Table 7-5a: Parking, Driveways, etc.

Section 74-26 - Curbs, Gutters, and Sidewalks

See Section 18-62, *Curbs, Gutters, and Sidewalks*.

Section 74-27 - Easements

- A. **Drainage and Stormwater Easements.** When a Subdivision has a natural channel, stream, or drainage from an adjacent property, the Final Plat must dedicate a Permanent Drainage Easement to the City with sufficient width to accommodate the natural channel, stream or drainage, plus an additional width to accommodate projected future runoff.
- B. **Utility Easements.** Easements across Lots centered on rear and side Lot Lines shall provide for utilities where necessary and shall be a minimum of 10 feet wide for two utility services (e.g., electric, gas, telephone, etc.) or 14 feet to 20 feet for two or more utility services.
- C. **Water and Wastewater Easements.** Easements required for water and wastewater shall be a minimum of 10 feet in width in the Right-of-Way of the front property line.
- D. **Encroachments and Removal of Encroachments.**
 - 1. *No Encroachments within an Easement.* No structures or permanent encroachments shall be allowed to be located within the area of any Easement required by this Chapter.
 - 2. *Right of Removal.* While the City and/or utility provider benefiting from an Easement will make efforts to minimize disturbances, both, however, shall have the right to remove any encroachment, structure, fence, landscaping (including overhanging limbs, shrubbery, or vegetation), or other improvements placed upon or over such Easement. (See Texas Utilities Code Section 181.007, *Authority to Hold Land or Other Property*)

3. *Cost of Removal.* The City and/or utility provider may assess the cost of removing an unauthorized improvement from an Easement against the landowner, including the placing of a lien on the property. (See TLGC Section 552.067, *Notice of Proposed Improvements; Lien*)
 4. *Restoration.* The City and/or utility provider shall not be obligated to restore or replace any such encroachment but shall restore any disturbed ground surfaces with seeding.
- E. **Maintenance of Easements.** The responsibility for the regular maintenance of the ground surface in any Easement shall rest with the owner of the property within which the Easement exists.

Section 74-28 - Survey and Monument Specifications

A. Information Required.

1. *Generally.* The following shall be used for mapping natural resources or other features of all Plats, site development plans, or plans as otherwise required by this Chapter. In general, boundaries shall be measured as follows:
 - a. Measurements for the boundary are to be made horizontally, perpendicular from, or radial from any feature or point.
 - b. Boundaries that are dependent on elevation shall be based upon on-site elevations and shall not be interpolated.
2. *Waterbodies and Watercourses.*
 - a. *Floodplains.* All development within the City, not part of a previously approved plan or Plat, shall show the boundary of the floodplain and floodway, if such exists on the site. Such delineation shall be by a registered professional land surveyor.
 - b. *Streams.* Streams (perennial, intermittent, mapped, and unmapped) with identifiable banks and beds shall have their boundaries set at the top of the bank.
 - c. *Wetlands.* Wetlands shall be measured by the criteria of the U.S. Army Corps of Engineers.
 - d. *Other Waterbodies/Watercourses.* Initial identification of other waterbodies/watercourses not otherwise classified shall be made using the U.S. Geological Survey quadrangle maps or more accurate information, as available. Field survey verification to determine evidence and location of channelized flow is required for all Plats and site development plans.
3. *Topography.* Topographic lines are required and shall be drawn at one-foot contour intervals unless such intervals are impractical due to essentially flat topography.

B. Monumentation. Survey monuments shall be required.

1. *Monument Markers.* All boundary corners, angle points, or points of curvature or tangency, including Block corners, Lot corners, Street intersections, and all angle points and points of curvature in Street lines must be monumented by a surveyor using sufficient, stable and reasonably permanent survey markers.
2. *Monument Size and Material.* Each monument shall be described in such a way as to clearly define the size, type of material, and the nature of the monument (i.e., three-fourths-inch iron pipe, five-eighths-inch iron rod, cotton spindle, mag nail, etc.).
3. *Standards.* All monuments shall be set to the standard of the Texas Board of Professional Land Surveying Practices Act and the general rules of practices and procedures of the Texas Board of Professional Land Surveying and shall bear reference caps as indicated.
4. *Benchmarking.*
 - a. *Location.* A benchmark monument or survey marker of a sufficient, stable, and reasonably permanent nature shall be found or placed within the boundaries of or within 300 feet of the boundaries of the Subdivision for project elevation control.
 - b. *Identification.* The placement of the benchmark with the location, description, and elevation of the benchmark shall be identified on the face of the Plat.
 - c. *Reference.* All project benchmarks and all project elevations shall be referenced to the published National Geodetic Survey (NGS) datum adjustment of the current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for the property location. Equations may be used to translate other datum adjustments to the required adjustment.

Section 74-29 - Sewer, Water and Utility Connections

- A. **Generally.** All Lots or Tracts in Subdivisions shall be provided by the Applicant with a water supply, water distribution system, fire hydrants, and a sewer system in accordance with the City's *Construction Design Manual*.
- B. **Requirement for Permits.** See Section 18-64, *Utility Availability, Major Development*.

Section 74-30 - Construction Improvements

- A. **Construction Requirements.** See Section 70-261, *Construction and Maintenance of Structures*.
- B. **Performance Bond.**
 1. *Bond Required.* Before starting any construction activity, including land clearing, an Applicant must obtain a performance bond guaranteeing to the City the installation of all of the required improvements within a specified time.

2. *Cost of Bond.* The cost of the performance bond is based on the estimated cost of the improvements and shall be in an amount approved by the Administrative Official.
- C. **Applicant Report upon Completion of Improvements.** When the required improvements of this Chapter are completed, the Applicant shall submit a written report to the Administrative Official stating that all required work has been completed in accordance with the approved plans and specifications.
- D. **City Acceptance.** See Section 74-55, *City Acceptance of Improvements*.

Section 74-31 - Drainage, Stormwater, and Flood Management

A. Drainage and Stormwater.

1. Drainage facilities shall be installed so as to drain all Lots in a Subdivision and to handle incoming flows from natural channels, streams and other drainage, and the sufficiency of such facilities shall be approved by the Public Works Director.
2. All water runoff shall drain into the Street from the same Lot address either naturally or through an internal drainage system, unless otherwise indicated on the Final Plat.
3. For further information see the City's *Stormwater Management Plan*.

B. Flood Management. See Chapter 18, Article IX, *Flood Damage Prevention*.**Article IV. Administrative Bodies**

Section 74-41 - Administrative Official

- A. **Right of Inspection.** The Administrative Official is empowered to enter any building, structure, or premises in the City upon which a development or land use is located, as follows:
 1. Entry shall be for the purpose of inspection to ensure compliance with this Chapter or any other Chapter of the City's Code of Ordinances.
 2. Inspection shall be performed during business hours, unless an emergency exists.
 3. Inspection shall be made only after:
 - a. Permission is granted by the owner or tenant; or
 - b. An order from a court of competent jurisdiction.
- B. **Interpretation.** The Administrative Official shall have the right to interpret provisions of this Chapter. Should an Applicant not agree with the Administrative Official's interpretation, he or she has the right to appeal as per Section 74-77, *Appeals*.
- C. **Responsibilities.** The Administrative Official shall:
 1. Establish deadlines for how far in advance an initial application must be submitted to be reviewed by either the City Council and/or the Zoning and Planning Commission (ZPC);

2. Provide application materials for Applicants;
3. Schedule and coordinate all Development Review Committee (DRC) meetings (See Section 74-43, *Development Review Committee*);
4. Decide all administrative approvals as per Section 74-61, *Table of Platting Requirements*;
5. Complete a staff report for all proposals that request approval under this Chapter of the City's Code of Ordinances;
6. Submit in writing to an Applicant any specific conditions required as a part of conditional approval for any and all applications; and
7. Enforce the provisions of Article VII, *Enforcement and Remedies* by:
 - a. Providing in writing the violation and/or the specific area(s) of noncompliance to the Person deemed to be in violation of any provision of this Chapter;
 - b. Bringing violations and/or lack of compliance to the attention of the ZPC, City Council, or other appropriate agency; and
 - c. Issuing or undertaking any remedies as deemed necessary by Section 74-83, *Non-Judicial Remedies*, and Section 74-84, *Judicial Remedies*.

Section 74-42 - City Council

- A. **Establishment.** The City Council is established by the City of West University Place Home Rule Charter, Article II, *City Council*.
- B. **Powers and Duties.** The City Council reserves to itself all of the powers and duties that are not expressly delegated within this Chapter of the Code of Ordinances. (See Home Rule Charter, Section 2.08, *Powers of Council*).

Section 74-43 - Development Review Committee (DRC)

- A. **Membership.**
 1. The Development Review Committee (DRC) shall be comprised of the City Staff designated by the Administrative Official and representatives from each referral agency that reviews development projects in conjunction with the City.
 2. Based on the nature of the application, DRC meetings can be limited to those staff and agencies affected by the development, or can be expanded to include additional agencies or staff with review responsibilities.
- B. **Meetings.** DRC meetings shall be convened by the Administrative Official, as necessary.
- C. **Responsibilities.** The DRC shall have the role to review and provide technical recommendations concerning any application specified in this Chapter of the City's Code of Ordinances.

Section 74-44 - Zoning and Planning Commission (ZPC)

- A. **Establishment.** The Zoning and Planning Commission (ZPC) is established by Home Rule Charter, Section 5.03, *Zoning and Planning Commission*.
- B. **Powers.** Unless otherwise designated, the ZPC shall have the responsibility for the approval of all plans, Plats, and permits as designated by this Chapter in accordance with Texas Local Government Code (TLGC) Chapter 212, *Municipal Regulation of Subdivisions and Property Development*. (See Home Rule Charter, Section 5.04, *Zoning and Planning Commission: Powers and Duties*).

Article V. Standardized Development Procedures

Section 74-51 - Pre-Application Conference

- A. **Applicant Responsibilities.** An Applicant shall:
 - 1. Consult early, informally, and in-person with the Administrative Official; and
 - 2. Avail himself to the advice and assistance of the Administrative Official.
- B. **Administrative Official Responsibilities.** The Administrative Official shall:
 - 1. Informally confer with the Applicant; and
 - 2. Advise and assist the Applicant in the procedure for approval of Plats and on regulations and policies of the City regarding development within the corporate limits.

Section 74-52 - Application Filing Process

- A. **Generally.** Every process established by this Chapter of the Code of Ordinances shall be submitted on a form approved by the City with the appropriate application fee in accordance with Appendix E, *Fees and Charges Schedule*, of the City's Code of Ordinances.
- B. **Payment of Fees.**
 - 1. All fees for all Plats (regardless of whether it is an original submittal or resubmittal) shall be paid at the time of application submittal.
 - 2. No Plat, permit, or application shall be approved unless and until such costs, charges, fees, or expenses are paid in full.
- C. **Forms.** The City may revise any applicable form to comply with any new or revised requirements of this Chapter.
- D. **Title Report.** A current title report (within the past 60 days as of the application date) is required to be filed with the City as part of the application process for any and all Plats. (See Article VI, *Plats*.)

E. Time and Location of Hearing.

1. *30 Day Requirement.* For all matters properly brought before the City Council or the ZPC, the date of the meeting shall be no later than 30 days following the submission of a complete application per Section 74-53, *Application Completeness Review*.
2. *Specific Time and Location.* Provided that the 30-day time requirement as discussed in subsection E(1) is met, the City shall be responsible for selecting a reasonable time and place for the hearing to be held.

F. Denial and Resubmittal of Plat. An Applicant may not submit an additional application for Subdivision of the same Lot or Tract within 12 months of the date of denial unless the Applicant can show to the ZPC's satisfaction that there is a material change in circumstances related to the application.

Section 74-53 - Application Completeness Review

A. Generally. Upon receipt of an application pursuant to this Chapter, the Administrative Official shall provide the Applicant with a dated receipt. Within ten working days of receipt of an application, the Administrative Official shall review the application and determine if:

1. The application includes all required materials and information; and
2. Those parts of the application which are required to be prepared by licensed professionals are, in fact, prepared by such professionals.

B. Determination of Completeness.

1. If the application is complete, the Administrative Official shall notify the Applicant in writing of this determination and require the Applicant to provide a sufficient number of copies of the application.
2. No application is complete until all up-front fees for review are paid.
3. The time period for processing an application after completeness review does not start unless the fees are paid.
4. Once an application has been accepted by the Administrative Official, the filing fee is non-refundable.

C. Determination of Incompleteness. If the application is incomplete, the Administrative Official shall notify the Applicant in writing, specifying the additional materials or information required to complete the application. The Applicant shall provide these materials within ten working days of the request or the application will be withdrawn. An application that is withdrawn may be re-filed at a future date however a new filing fee will be required.

Section 74-54 - Inactive and Expired Applications

- A. **Generally.** Applications must be diligently pursued by the Applicant. This Section includes procedures to void applications that become stale due to Applicant inaction.
- B. **Expiration of Applications.**
1. *Inactive.* An application becomes "inactive" for failure to comply with this Chapter, preventing it from being docketed for action or approved.
 2. *Stale.*
 - a. *Generally.* Inactive Applications become "stale" after 90 days of the filing of the application if the Applicant fails to address staff or referral agency review comments.
 - b. *Exception.* When the Applicant is actively pursuing action to address comments in coordination with staff, in which case the application shall become stale after 180 days of the date when the action was originally requested.
 3. *Void.* Stale applications are automatically voided six months after the original date when the action was requested if the Applicant fails to take action or requests an extension of time for cause.
 4. *No Refund of Fees.* If a Plat becomes stale and is voided, application fees will not be refunded and a new application and fees are required to file a subsequent Plat.
- C. **Extension of Time.** Prior to a Stale Application being voided, an application may be extended for up to six months upon written request of the Applicant for cause only.
- D. **Change in Ordinance Provisions.** If the City amends this Chapter or adopts other regulations during the period of time when an application is inactive and/or stale, the application shall not be subject to compliance to the new regulations unless the application becomes void.

Section 74-55 - City Acceptance of Improvements

For the City to accept the dedication of any public infrastructure improvement the following procedural steps are required:

- A. **Applicant Report.** See Section 74-30.C, *Applicant Report upon Completion of Improvements*.
- B. **City Staff Review.**
1. The City's Director of Public Works shall approve all water and sewer facilities.
 2. The City's Building Official shall complete a satisfactory final inspection confirming that all work, cleanup, and requirements of the ZPC have been completed.

- C. **City Council Acceptance.** Upon satisfactory completion of the Applicant report and City Staff report, the City Council shall formally accept the public improvements and release any excess funds held in the performance bond that the Applicant was required to post in accordance with Section 74-30.B, *Performance Bond*.

Section 74-56 - Required Notice

- A. **Generally.** Notice of any ZPC hearing on a Subdivision application, whether by publication or by mail, shall be given as required by TLGC Chapter 212, *Municipal Regulation of Subdivisions and Property Development*.
- B. **Content of Notice.** Notice shall include:
1. The date, time, and place of the hearing;
 2. Staff contact and phone number;
 3. A full legal description of the property; and
 4. A statement that the public is invited to review and comment on the application.
- C. **Constructive Notice.**
1. *Minor Defects.* Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if there was a bona fide attempt to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a location map, typographic or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties.
 2. *Failure to Receive Notice.* Failure of a party to receive written notice, when notice has been actually mailed, shall not invalidate subsequent action.
 3. *Questions Concerning Adequacy of Notice.* If questions arise regarding the adequacy of notice, the City Council or the ZPC may direct City Staff to make a formal finding as to whether there was substantial compliance with the notice requirements of this Chapter and the TLGC.
- D. **Types of Required Notice.**
1. *By Mail.* Notice by mail, when required, shall be provided to each property owner, as required by law, and as indicated by the most recently approved municipal tax roll of real property.
 2. *By Publication.* Notice by publication, when required, shall be provided in accordance with the requirements of the TLGC.
- E. **Computation of Time Requirement.** In computing the time periods for notice, the day of mailing, publication, or posting shall not be counted, but the day of the public hearing shall be counted.

F. **Required Notice Table.** Table 74-56, *Required Notice*, sets out the specific notice requirements for each type of application when notice is required.

Table 74-56 Required Notice		
Type of Application	By Mail	By Publication
Plats		
Preliminary Plats	Not Required	Required ²
Final Plats	Not Required	Required ²
Consolidated Preliminary and Final Plats	Not Required	Required ²
Minor Plat Amendments	Not Required	Not Required
Replats	Required ¹	Required ²
Notes:		
1. Required per Texas Local Government Code (TLGC) Section 212.015, <i>Additional Requirements for Certain Replats</i> .		
2. Required per Texas Government Code (TGC), Chapter 551, <i>Open Meetings</i> .		

Article VI. Plats

Section 74-61 - Table of Platting Requirements

Table 74-61 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross-reference
Preliminary Plats	Subdivision of real property	Required prior to Final Plat	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i> and Sec. 74-64, <i>Consolidated Preliminary and Final Plats</i>	Zoning and Planning Commission	Sec. 74-62, <i>Preliminary Plats</i>
Final Plats	Subdivision of real property	Required after Preliminary Plat and prior or concurrent with site development plan	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-63, <i>Final Plats</i>

Table 74-61 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross-reference
Consolidated Preliminary and Final Plats	Subdivision of real property (only applicable for projects meeting the requirements of Sec. 74-64)	Prior or concurrent with site development plan	N/A	Zoning and Planning Commission	Sec. 74-64, <i>Consolidated Preliminary and Final Plats</i>
Minor Plat Amendments	Amendments to Plats which fall under TLGC Sec. 212.016, <i>Amending Plat.</i>	Whenever requirements can be identified as being met	None	Administrative Official	Sec. 74-65, <i>Minor Plat Amendments</i>
Replats (Major Modifications)	Subdivision of real property	After Plat approval when edits to a Plat are necessary	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-66, <i>Replats (Major Modifications)</i>

Section 74-62 - Preliminary Plats

A. Required Plat Specifications. The Preliminary Plat shall show the following:

1. The names, addresses, and telephone numbers of the record owner of the Lot or Tract proposed to be subdivided, and the owner's agent, if any.
2. A description, by metes and bounds, of the proposed Subdivision and of the Lot or Tract from which the Subdivision is proposed.
3. Subdivision boundary lines (indicated by heavy lines) and other Lot Lines in the immediate vicinity.
4. The computed area of the Subdivision, each Lot in the Subdivision, and a number or letter to identify each Lot or Tract.
5. A north arrow.
6. The date of Plat preparation.
7. The scale of the Plat which shall be one-inch equals 20 feet minimum.
8. The front building setback lines on all Lots and Tracts.
9. The side yard building setback lines on corner Lots, if applicable.

10. The Street to which the Lot or Tract is dedicated and the proposed Street address (if available).
 11. The proposed Easements for drainage, public utility Easements and Streets, both public and private.
 12. The standards as set out in Section 74-28, *Survey and Monument Specifications*.
 13. A location inset, preferably in the upper right corner of the Plat, to show the Subdivision in relation to well-known Streets, streams, and natural channels in all directions for a distance of at least one-fourth mile.
 14. All proposed rights-of-way must be separately identified as distinct from other Lots on the Plat.
- B. **Required Submittals.** Applicants shall submit the following prior to the City determining whether all elements of the application are complete via Section 74-53, *Application Completeness Review*:
1. Full Filing Fee as provided on the City's Schedule of Fees. (See Appendix E, *Fees and Charges Schedule*)
 2. An electronic copy in PDF format which can be easily printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" that meets or exceeds the requirements of this Chapter.
 3. Letter of transmittal, stating briefly the type of Street surfacing, drainage, sanitary facilities, and water supply proposed.
 4. The name and address of the owner and/or the owner's agent.
 5. A statement of the extent of the Applicant's ownership.
 6. A boundary description of the land.
 7. A notarized certificate on the face of the Plat, executed by the Applicant, which certifies that all of the following is fully shown and accurately identified:
 - a. All existing encumbrances, such as all Easements for utilities and drainage;
 - b. Significant topographical features; and
 - c. All of the contiguous land which the Applicant owns or has a legal interest in.
 8. Plans and engineering calculations which shall all contain the seal and signature of a registered professional engineer.
 9. Any additional supplemental materials as applicable in other sections of this Chapter.
- C. **Action by Zoning and Planning Commission (ZPC).** The ZPC shall within 30 days after the Preliminary Plat has been properly filed and the requirements of Section 74-53, *Application Completeness Review*, have been satisfied:
1. Conclude either:
 - a. Approval;

- b. Approval with conditions; or
 - c. Disapproval; and
2. Record the action taken on two copies of the Preliminary Plat.
- D. Conditional Approval.**
1. Conditional approval shall be considered to be the status of a Plat or Replat until such conditions are complied with.
 2. All conditions imposed as part of a conditional approval, shall be furnished to the Applicant in writing.
- E. Effect of Approval.**
1. Approval of the Preliminary Plat shall be deemed an expression of general approval of the layout of Streets, water, sewer and other required improvements and utilities and shall not constitute acceptance of the Final Plat.
- F. Effect of Disapproval.** Should the ZPC disapprove a Plat, the ZPC shall within ten business days notify the Applicant in writing of the actions taken and the reasons for why said action was taken.
- G. Effect of No Decision.** If no decision is rendered by the ZPC within 30 days after the Preliminary Plat has been filed and the requirements of Section 74-53, *Application Completeness Review* have been satisfied, the Preliminary Plat, as submitted, shall be deemed to be approved.
- H. Expiration.** Preliminary Plat approval will expire six months after the approval by the ZPC. For this reason, there is no requirement that a Preliminary Plat that has been approved be vacated, should an Applicant decide against moving the project forward.
- I. Extension.** The Applicant may apply in writing for an extension prior to the end of such six month period. This period may be extended six months, but not beyond a total of one year.
- J. Required Notice.** See Section 74-56, *Required Notice*.

Section 74-63 - Final Plats

- A. Conformance to Preliminary Plat.** The Final Plat and accompanying data shall conform to the form and content of the Preliminary Plat and other required data as conditionally approved by the ZPC incorporating any and all changes, modifications, alterations, corrections and conditions as set out in the letters of preliminary approval from the ZPC.
- B. City Not Liable to Furnish Improvements.** The acceptance of a Final Plat by the City does not in any manner obligate the City to finance or furnish any storm sewers, drainage structures, Street, water, sewer improvements or any other items or improvements whatsoever.

- C. **Easements.** The Final Plat must clearly document all Easements that are required by Section 74-27, *Easements* and any of provisions of this Municipal Code.
- D. **Right-of-Way Dedication.** Rights-of-Way intended for public facilities shall be properly dedicated to public use and title transferred to the appropriate public agency. The Final Plat must provide clear evidence of the intent to complete this transfer.
- E. **Required Notice.** See Section 74-56, *Required Notice*.

Section 74-64 - Consolidated Preliminary and Final Plats

- A. **Applicability.** The Applicant may, at his option, elect to combine the Preliminary Plat and Final Plat process, whenever the following conditions are satisfied:
 - 1. The Tract of land is to be re-subdivided into no more than three Lots; and
 - 2. The dedication of Streets, utilities, and infrastructure is not required.
- B. **Required Notice.** See Section 74-56, *Required Notice*.

Section 74-65 - Minor Plat Amendments

- A. **Applicant Responsibilities.** An Applicant requesting a Minor Plat Amendment shall submit to the Administrative Official:
 - 1. An electronic copy in PDF format which can be easily printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" that meets or exceeds the requirements of this Chapter; and
 - 2. A statement:
 - a. Detailing the specific Minor Plat Amendment requested; and
 - b. Identifying the specific subsection of TLGC Section 212.016, *Amending Plat*, that permits the Plat to be amended without requiring a Replat.
- B. **Administrative Official Responsibilities.** The Administrative Official may:
 - 1. Administratively approve Minor Plat Amendments when the requirements of TLGC Section 212.016, *Amending Plat*, are met; or
 - 2. Elect to present the Plat to the ZPC for approval, conditional approval, or denial.

Section 74-66 - Replats (Major Modifications)

- A. **Applicability.** All Replats, excluding those that qualify for a Minor Plat Amendment per Section 74-65, *Minor Plat Amendments*, are required to be revised in accordance with this Chapter.

B. Legally Protested Supermajority.

1. *Vote Requirement.* If a proposed Replat is protested [as described in subsection (2) below] the Replat must receive, in order to be approved, the affirmative vote of at least three-fourths of all members of the ZPC.
2. *Legal Protest Standard.* For the legal protest approval standard to be applicable, a written petition signed by the owners of at least 20 percent of the area of the Lots or land immediately adjoining the area covered by the proposed Replat and extending 200 feet from that area, must be filed with the Administrative Official more than 24 hours prior to the opening of the public hearing.

C. **Procedural Process.** Replats may be submitted through the Final Plat process. See Section 74-63, *Final Plats*.

D. **Required Notice.** See Section 74-56, *Required Notice*.

Section 74-67 - Final Plat Vacation

See TLGC Section 212.013, *Vacating Plat*.

Article VII. Permits and Applications

Section 74-71 - Building Permit

- A. **Final Plat Required.** No building, repair, plumbing or electrical permit shall be issued by the City for any building or structure on a Lot or Tract unless a Final Plat has been approved pursuant to the provisions of this Chapter and filed for record with the City and the County Clerk.
- B. **Completion of Construction Improvements Required.** The Building Official may not authorize the issuance of permits for buildings in the Subdivision until all improvements are completed in accordance with the requirements of Section 74-30, *Construction Improvements*.
- C. **Completion of Site Development Plan and Drainage Plan.** The Building Official may not authorize the issuance of permits for buildings until all required site development plans (See Section 18-54, *Surveys; Site Plans*) and drainage plans (See Section 18-56, *Site Drainage; Drainage Plans*) have been fully submitted and approved by the Building Official.
- D. **Building Official Responsibilities.** The Building Official shall be responsible for the issuance of all building permits. See Chapter 18, *Buildings and Development*.

Section 74-72 - Floodplain Development Permit

See Chapter 18, Article IX, *Flood Damage Prevention*.

Section 74-73 - Site Development Plan

See Section 18-54, *Surveys; Site Plans*

Section 74-74 - Site Drainage Plan

See Section 18-56, *Site Drainage; Drainage Plans*

Section 74-75 - Text Amendment

- A. **Initiation of Amendment Request.** Requests for amendments to the text of this Chapter may be initiated by the request of the ZPC, City Council, the Administrative Official, or the public at-large to amend, add, or repeal any portion of this Chapter that is not required by either Texas or Federal Law.
- B. **Amendment Request Process.** All text amendments to this Chapter shall first be reviewed by City Staff and then subsequently reviewed by ZPC with a recommendation provided to the City Council as to whether the text amendment should be adopted.
- C. **Criteria for Approval.** The following shall be considered by the ZPC and the City Council in determining whether to adopt or recommend for adoption. The proposed amendment shall:
1. Promote the health, safety, and general welfare of the City;
 2. Promote the safe, orderly, efficient, and healthful development of the City;
 3. Be consistent with other regulations within the City's Code of Ordinances; and
 4. Be consistent with the policies of the most recent Comprehensive Plan for the City.
- D. **Clerical Error Amendments.** The City Council may, by resolution and without requiring the provisions of subsections (A), (B), and (C):
1. Correct spelling or punctuation errors;
 2. Cross-reference changes or errors; or
 3. Correct other matters determined by the City Attorney to be of a clerical nature and not requiring the notice requirements of Section 74-56, *Required Notice*.
- E. **Required Notice.** See Section 1-5, *Amendments or additions to Code*, of the City's Code of Ordinances and Texas Government Code (TGC) Chapter 551, *Open Meetings*.

Section 74-76 - Variances

- A. **Unnecessary Hardship Standard.** The ZPC may authorize a variance when an Applicant can show that a provision of these regulations:
1. Would cause unnecessary hardship if strictly adhered to; and
 2. Is because of a physical condition peculiar to the land.

B. Procedural Requirements.

1. Any variance authorized is required to be entered in writing into the minutes of ZPC meeting specifically stating the reason(s) for which the variance was approved.
2. Not less than two-thirds of the entire membership of the ZPC (not just those present at the meeting) must approve the request.

C. Required Notice. See TGC, Chapter 551, *Open Meetings*.

Section 74-77 - Appeals

A. Purpose. The purpose of the appeals process is to provide an opportunity for affected parties to seek review of a decision by either an Administrative Official or a public body in a timely and inexpensive manner.

B. City Staff Decisions. All decisions of the Administrative Official, Director of Public Works, Building Official, or any other properly designated City Staff representative pertaining to this Chapter, may be appealed to the ZPC.

C. Deadline to Appeal. All appeals must be fully completed and submitted to the City 30 days after an official decision.

D. Content. The request for appeal shall clearly state each alleged error or ground for protest which the appellant intends to assert. It cannot be amended, supplemented, or modified after notice of the meeting is posted.

E. Scope of Review. The ZPC shall review the application in the same manner, using the same approval criteria as the decision-maker. However the following shall apply:

1. No new evidence shall be presented to the ZPC that was not considered by the decision-maker; and
2. No issues shall be reviewed by the ZPC that were not described by the request for appeal.

F. Parties to Appeal.

1. Only parties shall have standing to bring an appeal. No appeal by a Person who is not a party shall be heard.
2. A Person is a party if it demonstrates:
 - a. That final action of the City caused it injury;
 - b. The injury is different in kind or degree from injury to members of the general public; and
 - c. The injury can be remedied if the appeal is granted.
3. Any Person that owns property within 300 feet of any Lot Line that is the subject of the appeal shall not be required to demonstrate injury.

G. **Required Notice.** See TGC, Chapter 551, *Open Meetings*.

Article VIII. Enforcement and Remedies

Section 74-81 - Violations

A. **Timeframe for Noncompliance to be addressed.**

1. Upon delivery of a proper noncompliance letter the Person receiving the letter shall have 10 business days to achieve compliance.
2. Failure to comply with a noncompliance letter within the 10 business day requirement shall constitute an offense.

B. **Other Lawful Actions Permitted.** Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

C. **Complaints.** Whenever a violation of this ordinance occurs, or is allowed to have occurred, any Person may file a written complaint. Such complaint shall state fully the causes and basis thereof. Said complaint shall be filed with the Administrative Official. The Administrative Official shall then immediately investigate and take any action that is appropriate per the regulations of this Chapter.

Section 74-82 - Penalties

See Section 1-7, *General Penalties for Violations; Alternative Enforcement*.

Section 74-83 - Non-Judicial Remedies

The City may on its own accord enforce any violation of this Chapter by using the following means and methods:

- A. **Withholding Permits.** The City may deny or withhold permits, approvals, or other forms of authorization for failure to comply with the requirements of this Chapter or those requirements of a referral agency.
- B. **Temporary Revocation of Permits.** The City may temporarily revoke permits to address an imminent danger to public health, public safety, public or private property or to prevent irreparable harm.
- C. **Suspension of Permits.** The City may suspend any permits to allow for the correction of a violation or in response to a judgment of a court of competent jurisdiction.
- D. **Revocation of Permits and Approvals.**
 1. *Generally.* Any permit or other approval required by this Chapter may be revoked when it is determined that:
 - a. There is a violation of any provision of this Chapter;

- b. The permit or approval was issued in error or based on false representation;
 - c. Upon the request of a referral agency with jurisdiction and due cause; or
 - d. There is a departure from approved plans or Plats as required under the permit, this Chapter, or the construction requirements.
2. *Notice.* Written notice of revocation shall state a time frame to correct the violation.
 3. *Effect of Notice.* No work or construction may proceed after service of the revocation notice except work that is either:
 - a. Necessary to correct a violation; or
 - b. Involves public safety and has the potential to create irreparable harm.
 4. *Failure to Correct.* After the period to correct the violation lapses, and said violation has not been corrected or abated, the City may take action to correct such violation and may place a lien upon the property or improvements to the property in an amount to cover all costs related to correction or abatement of the violation.

E. Stopping Work.

1. *Administrative Official Authority.* The Administrative Official shall have the authority, with or without revoking permits, to stop any or all construction activity necessary to halt, correct, or prevent a violation of this Chapter by issuing a written stop work order.
2. *Issuance of Order.* Upon issuance of a stop work order, the permittee and/or operator shall immediately stop all activity until authorized, in writing, by the City to proceed.

F. Cease and Desist Orders. The City may issue a cease and desist order to close unlawful land uses or to halt a violation of this Chapter.

Section 74-84 - Judicial Remedies

The City may seek the following judicial remedies or any other judicial remedy as permitted by law to enforce this Chapter in any court of competent jurisdiction:

- A. **Injunctive Relief.** The City may seek an injunction to stop any violation granted under this Chapter. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Chapter is, or may be, an injury to the public health, safety or general welfare or that public health, safety or general welfare may be irreparably injured.
- B. **Abatement.** The City may seek a court order in the nature of mandamus, abatement, or other action to abate or remove a violation, or to otherwise restore the premises in question to the condition in which they existed prior to a violation.

Chapter 74, Subdivisions

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Article I. Definitions and Interpretation

Section 74-1 - Rules of Construction

- A. **Headings.** Section and subsection headings are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, or intent of any provision of this Chapter.
- B. **Conflict between Text and Tables.** In the case of any real or apparent conflict between the text of this Chapter and any illustration, figure, or table explaining the text, the text shall control.
- C. **Shall and May.**
 - 1. "Shall" is always mandatory.
 - 2. "May" is always discretionary.
- D. **Interpretation.** The provisions of this this Chapter shall:
 - 1. Be held to be minimum requirements;
 - 2. Be liberally construed in favor of the governing body; and
 - 3. Not be deemed a limitation or repeal of any other powers granted by state statute.
- E. **Word Tense.** Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

Section 74-2 - Definitions

Accessory shall mean a building, structure, or use that is lawfully permitted and subordinate to a lawfully permitted principal building, structure, or use on the same building site.

Administrative Official shall mean the City Manager or his designee to administer the regulations and provisions of this Chapter of the City's Code of Ordinances.

Applicant shall mean any owner of real property or their agent, dividing, proposing to divide land, consolidating, or proposing to consolidate land so as to constitute a Subdivision.

Block shall mean an area bounded by ~~s~~Street areas and occupied by or intended for occupancy by buildings.

City shall mean the City of West University Place, Texas.

City Council shall mean the City Council of the City of West University Place, Texas.

Consolidated Preliminary and Final Plat shall mean the process by which an ~~a~~Applicant can obtain Final Plat approval without having to first receive official Preliminary Plat approval.

Easement shall mean a granted right to a Person to use land owned by another for a specific purpose.

Final Plat shall mean the map or drawing on which an Applicant's plan of Subdivision is presented in final recordable form for approval by the ZPC.

Inactive Application shall mean an application that has been submitted to the City, however the application does not fully comply with the standards of this Chapter meaning that City Staff is unable to place it on a ZPC agenda for potential adoption.

Lot shall mean a contiguous area of land with boundaries established by a legal instrument such as a recorded deed, court order, or a recorded Plat, which is recognized as a separate legal entity for purposes of transfer of title. The term "Lot" does not include areas within Rights-of-Way and shall not be construed to allow the creation of Lots that are not lawfully created in conformance with the provisions of this Chapter.

Lot Line shall mean the line that demarcates the boundary of a Lot.

Minor Plat Amendment shall mean a type of Replat that can be approved administratively because the necessary edits being requested are of the type identified by TLGC Section 212.016, *Amending Plat*.

Permanent Permeant Drainage Easement shall mean a drainage easement that has been granted to the City in perpetuity to control the drainage of stormwater off of a property.

Person shall mean a human being, partnership, corporation, sole proprietorship, representative, governmental entity, unincorporated business association or any other entity.

Plat shall mean a map or chart of a Subdivision including Replats.

Preliminary Plat shall mean the map or drawing on which an Applicant's plan of Subdivision is initially presented to the ZPC.

Replat shall mean a replat representing land that has previously been included in a recorded replat.

Right-of-Way shall mean area on, below, or above a Street, sidewalk, alley, waterway, or utility Easement in which a governmental body has a legal interest. The term does not include the wireless telecommunications.

Stale Application shall mean an Inactive Application for a Subdivision that has been submitted to the City not meeting the requirements necessary for approval and the Applicant has failed to address the City Staff and/or referral agency comments 90 days after the comments were forwarded to the Applicant.

Street shall mean a public Right-of-Way for vehicular traffic (including bicycles) whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, public roadway or as otherwise designated.

Subdivision shall mean the division or consolidation of a Lot or Tract of land into two or more Lots, sites or other divisions of the land for the purpose, whether immediate or future, of sale or building development.

Texas Local Government Code (TLGC) shall mean the most recent edition of the Texas Local Government Code, as amended.

Tract shall mean a portion of a Subdivision intended for development, typically being substantially larger than a Lot and intended for either large scale development, future Subdivision into smaller Lots, or preservation as open space.

Traffic Impact Analysis shall mean a study that prepared by a licensed professional traffic engineer or civil engineer in connection with a proposed land use application that forecasts, describes, and suggests ways of off-setting the traffic effects that will occur should the land use application be approved.

Zoning and Planning Commission (ZPC) shall mean the ZPC for the City of West University Place, Texas.

Article II. Purpose, Jurisdiction, and Applicability

Section 74-11 - Purposes

The purposes of this Chapter are to:

- A. Provide for the orderly and safe land development within the City;
- B. Promote the health, safety, and general welfare of the community;
- C. Ensure that new development is consistent with the City's most recently adopted Comprehensive Plan;
- D. Ensure that facilities to be accepted and maintained by the City are properly located and constructed; and
- E. Establish reasonable development restrictions that will neither infringe upon the Constitutions of the United States of America or the State of Texas nor create regulations that are arbitrary or capricious.

Section 74-12 - Jurisdiction

Unless otherwise noted all provisions of this Chapter apply within the municipal limits of the City of West University Place, Texas.

Section 74-13 - Applicability

- A. **When Applicable.** This Chapter is applicable whenever an application to subdivide or consolidate a Lot or Tract~~k~~ of property by means of a specific platting process as referenced in Article VI, *Plats* is officially submitted to the City.
- B. **When Not Applicable.** Land development applications and the process of entering into such applications as detailed elsewhere in the City's Code of Ordinances, such as Appendix A,

Zoning Ordinance and Chapter 18, *Buildings and Development*, have no bearing and/or applicability upon this Chapter unless otherwise cross-referenced.

Section 74-14 - Effective Date

The effective date of this Chapter is the same as the date of ~~it's~~its official adoption by the City Council which is []

Section 74-15 - Consistency with Zoning and the City Plans

A. Zoning.

1. *Land Use.* No land contained in any proposed Subdivision shall be reserved for any land use other than a use permitted within the zoning district where the property is located. (See Appendix A, *Zoning Ordinance*).
2. *Rezoning.* No Subdivision approval shall be approved that requires a change in zoning until the rezoning request is officially approved in compliance with Appendix A, *Zoning Ordinance*.

B. Plans. All Subdivisions shall be consistent with the City's plans including, but not limited to, the City's most recently adopted Comprehensive Plan and Drainage Plan.

Section 74-16 - Transition Standards

A. Development Approvals Predating the Effective Date.

1. It is the City's intent to respect existing development approvals. Approved development may be carried out within the scope of the development approval, including applicable standards in effect at the time of approval, provided that the approval was valid and has not lapsed per Section 74-54, *Inactive and Expired Applications*.
2. This Chapter does not prevent the City from enforcing any provision of Chapter 18, *Buildings and Development*, or any other chapter of the City's Code of Ordinances.

B. Pending Applications.

1. Except as provided in subsection (B)2 below, each application for development approval shall be evaluated only by the adopted ordinances and technical regulations in effect at the time that each complete application is submitted.
2. Applications that are not pursued with due diligence may expire pursuant to Section 74-54, *Inactive and Expired Applications*.

Article III. Subdivision Standards

Section 74-21 - Lots

A. Lot Size. All Lots and Tracts must conform to the regulations of Appendix A, Section 5-102, *Division of Building Sites*.

B. Lot Shape.

1. Lots shall be as rectangular as possible.
2. Irregular shaped Lots shall have sufficient width at the building line to meet the minimum width requirements of Appendix A, Table 5-1, *Building Site Dimensions*.

C. Lot Lines. Side Lot Lines shall be at right angles or as close to right angles as possible.

D. Street Frontage. Each Lot shall have adequate access to an existing or proposed public ~~s~~Street with the width of the ~~s~~Street area to be not less than 40 feet.

E. Lot Consolidation. Lots may be consolidated provided that:

1. The minimum requirements of Appendix A, Section 5-102, *Division of Building Sites*, have been met; and
2. Upon completion of any and all work permits none or only one of the applicable Lots has a primary habitable building located on it.

F. Lot Subdivision on Previously Consolidated Lot. Lots that have previously been consolidated may be subsequently subdivided again provided that the newly created Lots:

1. Satisfy the requirements of this Chapter and *Appendix A, Zoning Ordinance*; and
2. Neither of the newly proposed Lots would have an Accessory building, Accessory use, or Accessory structure left on the property without a primary building.

G. Through Lots. See Appendix A, *Zoning Ordinance*, Table 7-2, *Yards (or 'Setbacks')*: Note 1: *Through Lots or Building Sites*.

Section 74-22 - Building Sites

See Appendix A, *Zoning Ordinance*, Article 5, *Building Sites* and Section 18-53, *Building Sites*.

Section 74-23 - Blocks

- A. **Minimum Block Length.** Block length shall be a minimum of 500 feet.
- B. **Maximum Block Length.** Blocks shall not be more than 1,200 feet in length.

Section 74-24 - Streets and Public Rights-of-Way

- A. **Right-of-Way Width.** The City shall maintain the existing Right-of-Way width necessary to provide the paved ~~s~~Streets and sidewalks that presently exist throughout the City.
- B. **Street Pavement Width.** The City shall maintain the existing ~~s~~Street pavement width necessary to maintain the existing ~~s~~Street network throughout the City.
- C. **Alleys.** The creation of new alleys is prohibited.
- D. **Private Streets.** The creation of new private ~~s~~Streets is prohibited.

- E. **Street Lighting.** Street lighting shall be provided and meet the standards as provided in the City's *Construction Design Manual*.
- F. **Street Name and Traffic Signs.** All ~~s~~Street name and traffic signs shall be provided by the City.
- G. **Traffic Impact Analysis.**
 - 1. Where a proposed new development may create either increased traffic, intersection congestion, or any transportation concern, the City may require the Applicant to fund a Traffic Impact Analysis.
 - 2. Should the Traffic Impact Analysis determine that it is necessary, the Applicant may be required to share with the City the cost of any transportation improvement as is roughly proportional to the new development.

Section 74-25 - Access Management

See Appendix A, *Zoning Ordinance*, Table 7-5a: Parking, Driveways, etc.

Section 74-26 - Curbs, Gutters, and Sidewalks

See Section 18-62, *Curbs, Gutters, and Sidewalks*.

Section 74-27 - Easements

- A. **Drainage and Stormwater Easements.** When a Subdivision has a natural channel, stream, or drainage from an adjacent property, the Final Plat must dedicate a Permanent Drainage Easement to the City with sufficient width to accommodate the natural channel, stream or drainage, plus an additional width to accommodate projected future runoff.
- B. **Utility Easements.** Easements across Lots centered on rear and side Lot Lines shall provide for utilities where necessary and shall be a minimum of 10 feet wide for two utility services (e.g., electric, gas, telephone, etc.) or 14 feet to 20 feet for two or more utility services.
- C. **Water and Wastewater Easements.** Easements required for water and wastewater shall be a minimum of 10 feet in width in the Right-of-Way of the front property line.
- D. **Encroachments and Removal of Encroachments.**
 - 1. *No Encroachments within an Easement.* No structures or permanent encroachments shall be allowed to be located within the area of any Easement required by this Chapter.
 - 2. *Right of Removal.* While the City and/or utility provider benefiting from an Easement will make efforts to minimize disturbances, both, however, shall have the right to remove any encroachment, structure, fence, landscaping (including overhanging limbs, shrubbery, or vegetation), or other improvements placed upon or over such Easement. (See Texas Utilities Code Section 181.007, *Authority to Hold Land or Other Property*)

3. *Cost of Removal.* The City and/or utility provider may assess the cost of removing an unauthorized improvement from an Easement against the landowner, including the placing of a lien on the property. (See TLGC Section 552.067, *Notice of Proposed Improvements; Lien*)
 4. *Restoration.* The City and/or utility provider shall not be obligated to restore or replace any such encroachment but shall restore any disturbed ground surfaces with seeding.
- E. **Maintenance of Easements.** The responsibility for the regular maintenance of the ground surface in any Easement shall rest with the owner of the property within which the Easement exists.

Section 74-28 - Survey and Monument Specifications

A. Information Required.

1. *Generally.* The following shall be used for mapping natural resources or other features of all Plats, site development plans, or plans as otherwise required by this Chapter. In general, boundaries shall be measured as follows:
 - a. Measurements for the boundary are to be made horizontally, perpendicular from, or radial from any feature or point.
 - b. Boundaries that are dependent on elevation shall be based upon on-site elevations and shall not be interpolated.
2. *Waterbodies and Watercourses.*
 - a. *Floodplains.* All development within the City, not part of a previously approved plan or Plat, shall show the boundary of the floodplain and floodway, if such exists on the site. Such delineation shall be by a registered professional land surveyor.
 - b. *Streams.* Streams (perennial, intermittent, mapped, and unmapped) with identifiable banks and beds shall have their boundaries set at the top of the bank.
 - c. *Wetlands.* Wetlands shall be measured by the criteria of the U.S. Army Corps of Engineers.
 - d. *Other Waterbodies/Watercourses.* Initial identification of other waterbodies/watercourses not otherwise classified shall be made using the U.S. Geological Survey quadrangle maps or more accurate information, as available. Field survey verification to determine evidence and location of channelized flow is required for all ~~p~~Plats and site development plans.
3. *Topography.* Topographic lines are required and shall be drawn at one-foot contour intervals unless such intervals are impractical due to essentially flat topography.

B. Monumentation. Survey monuments shall be required.

1. *Monument Markers.* All boundary corners, angle points, or points of curvature or tangency, including Block corners, Lot corners, ~~s~~Street intersections, and all angle points and points of curvature in ~~s~~Street lines must be monumented by a surveyor using sufficient, stable and reasonably permanent survey markers.
2. *Monument Size and Material.* Each monument shall be described in such a way as to clearly define the size, type of material, and the nature of the monument (i.e., three-fourths-inch iron pipe, five-eighths-inch iron rod, cotton spindle, mag nail, etc.).
3. *Standards.* All monuments shall be set to the standard of the Texas Board of Professional Land Surveying Practices Act and the general rules of practices and procedures of the Texas Board of Professional Land Surveying and shall bear reference caps as indicated.
4. *Benchmarking.*
 - a. *Location.* A benchmark monument or survey marker of a sufficient, stable, and reasonably permanent nature shall be found or placed within the boundaries of or within 300 feet of the boundaries of the Subdivision for project elevation control.
 - b. *Identification.* The placement of the benchmark with the location, description, and elevation of the benchmark shall be identified on the face of the Plat.
 - c. *Reference.* All project benchmarks and all project elevations shall be referenced to the published National Geodetic Survey (NGS) datum adjustment of the current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for the property location. Equations may be used to translate other datum adjustments to the required adjustment.

Section 74-29 - Sewer, Water and Utility Connections

- A. **Generally.** All Lots or Tracts in Subdivisions shall be provided by the Applicant with a water supply, water distribution system, fire hydrants, and a sewer system in accordance with the City's *Construction Design Manual*.
- B. **Requirement for Permits.** See Section 18-64, *Utility Availability, Major Development*.

Section 74-30 - Construction Improvements

- A. **Construction Requirements.** See Section 70-261, *Construction and Maintenance of Structures*.
- B. **Performance Bond.**
 1. *Bond Required.* Before starting any construction activity, including land clearing, an Applicant must obtain a performance bond guaranteeing to the City the installation of all of the required improvements within a specified time.

2. *Cost of Bond.* The cost of the performance bond is based on the estimated cost of the improvements and shall be in an amount approved by the Administrative Official.
- C. **Applicant Report upon Completion of Improvements.** When the required improvements of this Chapter are completed, the Applicant shall submit a written report to the Administrative Official stating that all required work has been completed in accordance with the approved plans and specifications.
- D. **City Acceptance.** See Section 74-55, *City Acceptance of Improvements*.

Section 74-31 - Drainage, Stormwater, and Flood Management

A. Drainage and Stormwater.

1. Drainage facilities shall be installed so as to drain all Lots in a Subdivision and to handle incoming flows from natural channels, streams and other drainage, and the sufficiency of such facilities shall be approved by the Public Works Director.
2. All water runoff shall drain into the Street from the same Lot address either naturally or through an internal drainage system, unless otherwise indicated on the Final Plat.
3. For further information see the City's *Stormwater Management Plan*.

B. Flood Management. See Chapter 18, Article IX, *Flood Damage Prevention*.**Article IV. Administrative Bodies**

Section 74-41 - Administrative Official

- A. **Right of Inspection.** The Administrative Official is empowered to enter any building, structure, or premises in the City upon which a development or land use is located, as follows:
 1. Entry shall be for the purpose of inspection to ensure compliance with this Chapter or any other Chapter of the City's Code of Ordinances.
 2. Inspection shall be performed during business hours, unless an emergency exists.
 3. Inspection shall be made only after:
 - a. Permission is granted by the owner or tenant; or
 - b. An order from a court of competent jurisdiction.
- B. **Interpretation.** The Administrative Official shall have the right to interpret provisions of this Chapter. Should an Applicant not agree with the Administrative Official's interpretation, he or she has the right to appeal as per Section 74-77, *Appeals*.
- C. **Responsibilities.** The Administrative Official shall:
 1. Establish deadlines for how far in advance an initial application must be submitted to be reviewed by either the City Council and/or the Zoning and Planning Commission (ZPC);

2. Provide application materials for Applicants;
3. Schedule and coordinate all Development Review Committee (DRC) meetings (See Section 74-43, *Development Review Committee*);
4. Decide all administrative approvals as per Section 74-61, *Table of Platting Requirements*;
5. Complete a staff report for all proposals that request approval under this Chapter of the City's Code of Ordinances;
6. Submit in writing to an Applicant any specific conditions required as a part of conditional approval for any and all applications; and
7. Enforce the provisions of Article VII, *Enforcement and Remedies* by:
 - a. Providing in writing the violation and/or the specific area(s) of noncompliance to the Person deemed to be in violation of any provision of this Chapter;
 - b. Bringing violations and/or lack of compliance to the attention of the ZPC, City Council, or other appropriate agency; and
 - c. Issuing or undertaking any remedies as deemed necessary by Section 74-83, *Non-Judicial Remedies*, and Section 74-84, *Judicial Remedies*.

Section 74-42 - City Council

- A. **Establishment.** The City Council is established by the City of West University Place Home Rule Charter, Article II, *City Council*.
- B. **Powers and Duties.** The City Council reserves to itself all of the powers and duties that are not expressly delegated within this Chapter of the Code of Ordinances. (See Home Rule Charter, Section 2.08, *Powers of Council*).

Section 74-43 - Development Review Committee (DRC)

- A. **Membership.**
 1. The Development Review Committee (DRC) shall be comprised of the City Staff designated by the Administrative Official and representatives from each referral agency that reviews development projects in conjunction with the City.
 2. Based on the nature of the application, DRC meetings can be limited to those staff and agencies affected by the development, or can be expanded to include additional agencies or staff with review responsibilities.
- B. **Meetings.** DRC meetings shall be convened by the Administrative Official, as necessary.
- C. **Responsibilities.** The DRC shall have the role to review and provide technical recommendations concerning any application specified in this Chapter of the City's Code of Ordinances.

Section 74-44 - Zoning and Planning Commission (ZPC)

- A. **Establishment.** The Zoning and Planning Commission (ZPC) is established by Home Rule Charter, Section 5.03, *Zoning and Planning Commission*.
- B. **Powers.** Unless otherwise designated, the ZPC shall have the responsibility for the approval of all plans, Plats, and permits as designated by this Chapter in accordance with Texas Local Government Code (TLGC) Chapter 212, *Municipal Regulation of Subdivisions and Property Development*. (See Home Rule Charter, Section 5.04, *Zoning and Planning Commission: Powers and Duties*).

Article V. Standardized Development Procedures

Section 74-51 - Pre-Application Conference

- A. **Applicant Responsibilities.** An Applicant shall:
 - 1. Consult early, informally, and in-person with the Administrative Official; and
 - 2. Avail himself to the advice and assistance of the Administrative Official.
- B. **Administrative Official Responsibilities.** The Administrative Official shall:
 - 1. Informally confer with the Applicant; and
 - 2. Advise and assist the Applicant in the procedure for approval of Plats and on regulations and policies of the City regarding development within the corporate limits.

Section 74-52 - Application Filing Process

- A. **Generally.** Every process established by this Chapter of the Code of Ordinances shall be submitted on a form approved by the City with the appropriate application fee in accordance with Appendix E, *Fees and Charges Schedule*, of the City's Code of Ordinances.
- B. **Payment of Fees.**
 - 1. All fees for all Plats (regardless of whether it is an original submittal or resubmittal) shall be paid at the time of application submittal.
 - 2. No Plat, permit, or application shall be approved unless and until such costs, charges, fees, or expenses are paid in full.
- C. **Forms.** The City may revise any applicable form to comply with any new or revised requirements of this Chapter.
- D. **Title Report.** A current title report (within the past 60 days as of the application date) is required to be filed with the City as part of the application process for any and all Plats. (See Article VI, *Plats*.)

E. Time and Location of Hearing.

1. *30 Day Requirement.* For all matters properly brought before the City Council or the ZPC, the date of the meeting shall be no later than 30 days following the submission of a complete application per Section 74-53, *Application Completeness Review*.
2. *Specific Time and Location.* Provided that the 30-day time requirement as discussed in subsection E(1) is met, the City shall be responsible for selecting a reasonable time and place for the hearing to be held.

F. Denial and Resubmittal of Plat. An Applicant may not submit an additional application for Subdivision of the same Lot or Tract within 12 months of the date of denial unless the Applicant can show to the ZPC's satisfaction that there is a material change in circumstances related to the application.

Section 74-53 - Application Completeness Review

A. Generally. Upon receipt of an application pursuant to this Chapter, the Administrative Official shall provide the Applicant with a dated receipt. Within ten working days of receipt of an application, the Administrative Official shall review the application and determine if:

1. The application includes all required materials and information; and
2. Those parts of the application which are required to be prepared by licensed professionals are, in fact, prepared by such professionals.

B. Determination of Completeness.

1. If the application is complete, the Administrative Official shall notify the Applicant in writing of this determination and require the Applicant to provide a sufficient number of copies of the application.
2. No application is complete until all up-front fees for review are paid.
3. The time period for processing an application after completeness review does not start unless the fees are paid.
4. Once an application has been accepted by the Administrative Official, the filing fee is non-refundable.

C. Determination of Incompleteness. If the application is incomplete, the Administrative Official shall notify the Applicant in writing, specifying the additional materials or information required to complete the application. The Applicant shall provide these materials within ten working days of the request or the application will be withdrawn. An application that is withdrawn may be re-filed at a future date however a new filing fee will be required.

Section 74-54 - Inactive and Expired Applications

- A. **Generally.** Applications must be diligently pursued by the Applicant. This Section includes procedures to void applications that become stale due to Applicant inaction.
- B. **Expiration of Applications.**
1. *Inactive.* An application becomes "inactive" for failure to comply with this Chapter, preventing it from being docketed for action or approved.
 2. *Stale.*
 - a. *Generally.* Inactive Applications become "stale" after 90 days of the filing of the application if the Applicant fails to address staff or referral agency review comments.
 - b. *Exception.* When the Applicant is actively pursuing action to address comments in coordination with staff, in which case the application shall become stale after 180 days of the date when the action was originally requested.
 3. *Void.* Stale applications are automatically voided six months after the original date when the action was requested if the Applicant fails to take action or requests an extension of time for cause.
 4. *No Refund of Fees.* If a Plat becomes stale and is voided, application fees will not be refunded and a new application and fees are required to file a subsequent Plat.
- C. **Extension of Time.** Prior to a Stale Application being voided, an application may be extended for up to six months upon written request of the Applicant for cause only.
- D. **Change in Ordinance Provisions.** If the City amends this Chapter or adopts other regulations during the period of time when an application is inactive and/or stale, the application shall not be subject to compliance to the new regulations unless the application becomes void.

Section 74-55 - City Acceptance of Improvements

For the City to accept the dedication of any public infrastructure improvement the following procedural steps are required:

- A. **Applicant Report.** See Section 74-30.C, *Applicant Report upon Completion of Improvements*.
- B. **City Staff Review.**
1. The City's Director of Public Works shall approve all water and sewer facilities.
 2. The City's Building Official shall complete a satisfactory final inspection confirming that all work, cleanup, and requirements of the ZPC have been completed.

- C. **City Council Acceptance.** Upon satisfactory completion of the Applicant report and City Staff report, the City Council shall formally accept the public improvements and release any excess funds held in the performance bond that the Applicant was required to post in accordance with Section 74-30.B, *Performance Bond*.

Section 74-56 - Required Notice

- A. **Generally.** Notice of any ZPC hearing on a Subdivision application, whether by publication or by mail, shall be given as required by TLGC Chapter 212, *Municipal Regulation of Subdivisions and Property Development*.
- B. **Content of Notice.** Notice shall include:
1. The date, time, and place of the hearing;
 2. Staff contact and phone number;
 3. A full legal description of the property; and
 4. A statement that the public is invited to review and comment on the application.
- C. **Constructive Notice.**
1. *Minor Defects.* Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if there was a bona fide attempt to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a location map, typographic or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties.
 2. *Failure to Receive Notice.* Failure of a party to receive written notice, when notice has been actually mailed, shall not invalidate subsequent action.
 3. *Questions Concerning Adequacy of Notice.* If questions arise regarding the adequacy of notice, the City Council or the ZPC may direct City Staff to make a formal finding as to whether there was substantial compliance with the notice requirements of this Chapter and the TLGC.
- D. **Types of Required Notice.**
1. *By Mail.* Notice by mail, when required, shall be provided to each property owner, as required by law, and as indicated by the most recently approved municipal tax roll of real property.
 2. *By Publication.* Notice by publication, when required, shall be provided in accordance with the requirements of the TLGC.
- E. **Computation of Time Requirement.** In computing the time periods for notice, the day of mailing, publication, or posting shall not be counted, but the day of the public hearing shall be counted.

F. **Required Notice Table.** Table 74-56, *Required Notice*, sets out the specific notice requirements for each type of application when notice is required.

Table 74-56 Required Notice		
Type of Application	By Mail	By Publication
Plats		
Preliminary Plats	Not Required	Required ²
Final Plats	Not Required	Required ²
Consolidated Preliminary and Final Plats	Not Required	Required ²
Minor Plat Amendments	Not Required	Not Required
Replats	Required ¹	Required ²
Notes:		
1. Required per Texas Local Government Code (TLGC) Section 212.015, <i>Additional Requirements for Certain Replats</i> .		
2. Required per Texas Government Code (TGC), Chapter 551, <i>Open Meetings</i> .		

Article VI. Plats

Section 74-61 - Table of Platting Requirements

Table 74-61 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross-reference
Preliminary Plats	Subdivision of real property	Required prior to Final Plat	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i> and Sec. 74-64, <i>Consolidated Preliminary and Final Plats</i>	Zoning and Planning Commission	Sec. 74-62, <i>Preliminary Plats</i>
Final Plats	Subdivision of real property	Required after Preliminary Plat and prior or concurrent with site development plan	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-63, <i>Final Plats</i>

Table 74-61 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross-reference
Consolidated Preliminary and Final Plats	Subdivision of real property (only applicable for projects meeting the requirements of Sec. 74-64)	Prior or concurrent with site development plan	N/A	Zoning and Planning Commission	Sec. 74-64, <i>Consolidated Preliminary and Final Plats</i>
Minor Plat Amendments	Amendments to Plats which fall under TLGC Sec. 212.016, <i>Amending Plat.</i>	Whenever requirements can be identified as being met	None	Administrative Official	Sec. 74-65, <i>Minor Plat Amendments</i>
Replats (Major Modifications)	Subdivision of real property	After Plat approval when edits to a Plat are necessary	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-66, <i>Replats (Major Modifications)</i>

Section 74-62 - Preliminary Plats

A. Required Plat Specifications. The Preliminary Plat shall show the following:

1. The names, addresses, and telephone numbers of the record owner of the Lot or Tract proposed to be subdivided, and the owner's agent, if any.
2. A description, by metes and bounds, of the proposed Subdivision and of the Lot or Tract from which the Subdivision is proposed.
3. Subdivision boundary lines (indicated by heavy lines) and other Lot Lines in the immediate vicinity.
4. The computed area of the Subdivision, each Lot in the Subdivision, and a number or letter to identify each Lot or Tract.
5. A north arrow.
6. The date of Plat preparation.
7. The scale of the Plat which shall be one-inch equals 20 feet minimum.
8. The front building setback lines on all Lots and Tracts.
9. The side yard building setback lines on corner Lots, if applicable.

10. The Street to which the Lot or Tract is dedicated and the proposed Street address (if available).
 11. The proposed Easements for drainage, public utility Easements and Streets, both public and private.
 12. The standards as set out in Section 74-28, *Survey and Monument Specifications*.
 13. A location inset, preferably in the upper right corner of the Plat, to show the Subdivision in relation to well-known Streets, streams, and natural channels in all directions for a distance of at least one-fourth mile.
 14. All proposed rights-of-way must be separately identified as distinct from other Lots on the Plat.
- B. **Required Submittals.** Applicants shall submit the following prior to the City determining whether all elements of the application are complete via Section 74-53, *Application Completeness Review*:
1. Full Filing Fee as provided on the City's Schedule of Fees. (See Appendix E, *Fees and Charges Schedule*)
 2. An electronic copy in PDF format which can be easily printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" that meets or exceeds the requirements of this Chapter.
 3. Letter of transmittal, stating briefly the type of Street surfacing, drainage, sanitary facilities, and water supply proposed.
 4. The name and address of the owner and/or the owner's agent.
 5. A statement of the extent of the Applicant's ownership.
 6. A boundary description of the land.
 7. A notarized certificate on the face of the Plat, executed by the Applicant, which certifies that all of the following is fully shown and accurately identified:
 - a. All existing encumbrances, such as all Easements for utilities and drainage;
 - b. Significant topographical features; and
 - c. All of the contiguous land which the Applicant owns or has a legal interest in.
 8. Plans and engineering calculations which shall all contain the seal and signature of a registered professional engineer.
 9. Any additional supplemental materials as applicable in other sections of this Chapter.
- C. **Action by Zoning and Planning Commission (ZPC).** The ZPC shall within 30 days after the Preliminary Plat has been properly filed and the requirements of Section 74-53, *Application Completeness Review*, have been satisfied:
1. Conclude either:
 - a. Approval;

- b. Approval with conditions; or
 - c. Disapproval; and
2. Record the action taken on two copies of the Preliminary Plat.
- D. Conditional Approval.**
- 1. Conditional approval shall be considered to be the status of a Plat or Replat until such conditions are complied with.
 - 2. All conditions imposed as part of a conditional approval, shall be furnished to the Applicant in writing.
- E. Effect of Approval.**
- 1. Approval of the Preliminary Plat shall be deemed an expression of general approval of the layout of Streets, water, sewer and other required improvements and utilities and shall not constitute acceptance of the Final Plat.
- F. Effect of Disapproval.** Should the ZPC disapprove a Plat, the ZPC shall within ten business days notify the Applicant in writing of the actions taken and the reasons for why said action was taken.
- G. Effect of No Decision.** If no decision is rendered by the ZPC within 30 days after the Preliminary Plat has been filed and the requirements of Section 74-53, *Application Completeness Review* have been satisfied, the Preliminary Plat, as submitted, shall be deemed to be approved.
- H. Expiration.** Preliminary Plat approval will expire six months after the approval by the ZPC. For this reason, there is no requirement that a Preliminary Plat that has been approved be vacated, should an Applicant decide against moving the project forward.
- I. Extension.** The Applicant may apply in writing for an extension prior to the end of such six month period. This period may be extended six months, but not beyond a total of one year.
- J. Required Notice.** See Section 74-56, *Required Notice*.

Section 74-63 - Final Plats

- A. Conformance to Preliminary Plat.** The Final Plat and accompanying data shall conform to the form and content of the Preliminary Plat and other required data as conditionally approved by the ZPC incorporating any and all changes, modifications, alterations, corrections and conditions as set out in the letters of preliminary approval from the ZPC.
- B. City Not Liable to Furnish Improvements.** The acceptance of a Final Plat by the City does not in any manner obligate the City to finance or furnish any storm sewers, drainage structures, Street, water, sewer improvements or any other items or improvements whatsoever.

- C. **Easements.** The Final Plat must clearly document all Easements that are required by Section 74-27, *Easements* and any of provisions of this Municipal Code.
- D. **Right-of-Way Dedication.** Rights-of-Way intended for public facilities shall be properly dedicated to public use and title transferred to the appropriate public agency. The Final Plat must provide clear evidence of the intent to complete this transfer.
- E. **Required Notice.** See Section 74-56, *Required Notice*.

Section 74-64 - Consolidated Preliminary and Final Plats

- A. **Applicability.** The Applicant may, at his option, elect to combine the Preliminary Plat and Final Plat process, whenever the following conditions are satisfied:
 - 1. The Tract of land is to be re-subdivided into no more than three Lots; and
 - 2. The dedication of Streets, utilities, and infrastructure is not required.
- B. **Required Notice.** See Section 74-56, *Required Notice*.

Section 74-65 - Minor Plat Amendments

- A. **Applicant Responsibilities.** An Applicant requesting a Minor Plat Amendment shall submit to the Administrative Official:
 - 1. An electronic copy in PDF format which can be easily printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" that meets or exceeds the requirements of this Chapter; and
 - 2. A statement:
 - a. Detailing the specific Minor Plat Amendment requested; and
 - b. Identifying the specific subsection of TLGC Section 212.016, *Amending Plat*, that permits the Plat to be amended without requiring a Replat.
- B. **Administrative Official Responsibilities.** The Administrative Official may:
 - 1. Administratively approve Minor Plat Amendments when the requirements of TLGC Section 212.016, *Amending Plat*, are met; or
 - 2. Elect to present the Plat to the ZPC for approval, conditional approval, or denial.

Section 74-66 - Replats (Major Modifications)

- A. **Applicability.** All Replats, excluding those that qualify for a Minor Plat Amendment per Section 74-65, *Minor Plat Amendments*, are required to be revised in accordance with this Chapter.

B. Legally Protested Supermajority.

1. *Vote Requirement.* If a proposed Replat is protested [as described in subsection (2) below] the Replat must receive, in order to be approved, the affirmative vote of at least three-fourths of all members of the ZPC.
2. *Legal Protest Standard.* For the legal protest approval standard to be applicable, a written petition signed by the owners of at least 20 percent of the area of the Lots or land immediately adjoining the area covered by the proposed Replat and extending 200 feet from that area, must be filed with the Administrative Official more than 24 hours prior to the opening of the public hearing.

C. **Procedural Process.** Replats may be submitted through the Final Plat process. See Section 74-63, *Final Plats*.

D. **Required Notice.** See Section 74-56, *Required Notice*.

Section 74-67 - Final Plat Vacation

See TLGC Section 212.013, *Vacating Plat*.

Article VII. Permits and Applications

Section 74-71 - Building Permit

- A. **Final Plat Required.** No building, repair, plumbing or electrical permit shall be issued by the City for any building or structure on a Lot or Tract unless a Final Plat has been approved pursuant to the provisions of this Chapter and filed for record with the City and the County Clerk.
- B. **Completion of Construction Improvements Required.** The Building Official may not authorize the issuance of permits for buildings in the Subdivision until all improvements are completed in accordance with the requirements of Section 74-30, *Construction Improvements*.
- C. **Completion of Site Development Plan and Drainage Plan.** The Building Official may not authorize the issuance of permits for buildings until all required site development plans (See Section 18-54, *Surveys; Site Plans*) and drainage plans (See Section 18-56, *Site Drainage; Drainage Plans*) have been fully submitted and approved by the Building Official.
- D. **Building Official Responsibilities.** The Building Official shall be responsible for the issuance of all building permits. See Chapter 18, *Buildings and Development*.

Section 74-72 - Floodplain Development Permit

See Chapter 18, Article IX, *Flood Damage Prevention*.

Section 74-73 - Site Development Plan

See Section 18-54, *Surveys; Site Plans*

Section 74-74 - Site Drainage Plan

See Section 18-56, *Site Drainage; Drainage Plans*

Section 74-75 - Text Amendment

- A. **Initiation of Amendment Request.** Requests for amendments to the text of this Chapter may be initiated by the request of the ZPC, City Council, the Administrative Official, or the public at-large to amend, add, or repeal any portion of this Chapter that is not required by either Texas or Federal Law.
- B. **Amendment Request Process.** All text amendments to this Chapter shall first be reviewed by City Staff and then subsequently reviewed by ZPC with a recommendation provided to the City Council as to whether the text amendment should be adopted.
- C. **Criteria for Approval.** The following shall be considered by the ZPC and the City Council in determining whether to adopt or recommend for adoption. The proposed amendment shall:
1. Promote the health, safety, and general welfare of the City;
 2. Promote the safe, orderly, efficient, and healthful development of the City;
 3. Be consistent with other regulations within the City's Code of Ordinances; and
 4. Be consistent with the policies of the most recent Comprehensive Plan for the City.
- D. **Clerical Error Amendments.** The City Council may, by resolution and without requiring the provisions of subsections (A), (B), and (C):
1. Correct spelling or punctuation errors;
 2. Cross-reference changes or errors; or
 3. Correct other matters determined by the City Attorney to be of a clerical nature and not requiring the notice requirements of Section 74-56, *Required Notice*.
- E. **Required Notice.** See Section 1-5, *Amendments or additions to Code*, of the City's Code of Ordinances and Texas Government Code (TGC) Chapter 551, *Open Meetings*.

Section 74-76 - Variances

- A. **Unnecessary Hardship Standard.** The ZPC may authorize a variance when an Applicant can show that a provision of these regulations:
1. Would cause unnecessary hardship if strictly adhered to; and
 2. Is because of a physical condition peculiar to the land.

B. Procedural Requirements.

1. Any variance authorized is required to be entered in writing into the minutes of ZPC meeting specifically stating the reason(s) for which the variance was approved.
2. Not less than two-thirds of the entire membership of the ZPC (not just those present at the meeting) must approve the request.

C. Required Notice. See TGC, Chapter 551, *Open Meetings*.

Section 74-77 - Appeals

A. Purpose. The purpose of the appeals process is to provide an opportunity for affected parties to seek review of a decision by either an Administrative Official or a public body in a timely and inexpensive manner.

B. City Staff Decisions. All decisions of the Administrative Official, Director of Public Works, Building Official, or any other properly designated City Staff representative pertaining to this Chapter, may be appealed to the ZPC.

C. Deadline to Appeal. All appeals must be fully completed and submitted to the City 30 days after an official decision.

D. Content. The request for appeal shall clearly state each alleged error or ground for protest which the appellant intends to assert. It cannot be amended, supplemented, or modified after notice of the meeting is posted.

E. Scope of Review. The ZPC shall review the application in the same manner, using the same approval criteria as the decision-maker. However the following shall apply:

1. No new evidence shall be presented to the ZPC that was not considered by the decision-maker; and
2. No issues shall be reviewed by the ZPC that were not described by the request for appeal.

F. Parties to Appeal.

1. Only parties shall have standing to bring an appeal. No appeal by a Person who is not a party shall be heard.
2. A Person is a party if it demonstrates:
 - a. That final action of the City caused it injury;
 - b. The injury is different in kind or degree from injury to members of the general public; and
 - c. The injury can be remedied if the appeal is granted.
3. Any Person that owns property within 300 feet of any Lot Line that is the subject of the appeal shall not be required to demonstrate injury.

G. **Required Notice.** See TGC, Chapter 551, *Open Meetings*.

Article VIII. Enforcement and Remedies

Section 74-81 - Violations

A. **Timeframe for Noncompliance to be addressed.**

1. Upon delivery of a proper noncompliance letter the Person receiving the letter shall have 10 business days to achieve compliance.
2. Failure to comply with a noncompliance letter within the 10 business day requirement shall constitute an offense.

B. **Other Lawful Actions Permitted.** Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

C. **Complaints.** Whenever a violation of this ordinance occurs, or is allowed to have occurred, any Person may file a written complaint. Such complaint shall state fully the causes and basis thereof. Said complaint shall be filed with the Administrative Official. The Administrative Official shall then immediately investigate and take any action that is appropriate per the regulations of this Chapter.

Section 74-82 - Penalties

See Section 1-7, *General Penalties for Violations; Alternative Enforcement*.

Section 74-83 - Non-Judicial Remedies

The City may on its own accord enforce any violation of this Chapter by using the following means and methods:

- A. **Withholding Permits.** The City may deny or withhold permits, approvals, or other forms of authorization for failure to comply with the requirements of this Chapter or those requirements of a referral agency.
- B. **Temporary Revocation of Permits.** The City may temporarily revoke permits to address an imminent danger to public health, public safety, public or private property or to prevent irreparable harm.
- C. **Suspension of Permits.** The City may suspend any permits to allow for the correction of a violation or in response to a judgment of a court of competent jurisdiction.
- D. **Revocation of Permits and Approvals.**
 1. *Generally.* Any permit or other approval required by this Chapter may be revoked when it is determined that:
 - a. There is a violation of any provision of this Chapter;

- b. The permit or approval was issued in error or based on false representation;
 - c. Upon the request of a referral agency with jurisdiction and due cause; or
 - d. There is a departure from approved plans or Plats as required under the permit, this Chapter, or the construction requirements.
2. *Notice.* Written notice of revocation shall state a time frame to correct the violation.
 3. *Effect of Notice.* No work or construction may proceed after service of the revocation notice except work that is either:
 - a. Necessary to correct a violation; or
 - b. Involves public safety and has the potential to create irreparable harm.
 4. *Failure to Correct.* After the period to correct the violation lapses, and said violation has not been corrected or abated, the City may take action to correct such violation and may place a lien upon the property or improvements to the property in an amount to cover all costs related to correction or abatement of the violation.

E. Stopping Work.

1. *Administrative Official Authority.* The Administrative Official shall have the authority, with or without revoking permits, to stop any or all construction activity necessary to halt, correct, or prevent a violation of this Chapter by issuing a written stop work order.
2. *Issuance of Order.* Upon issuance of a stop work order, the permittee and/or operator shall immediately stop all activity until authorized, in writing, by the City to proceed.

F. Cease and Desist Orders. The City may issue a cease and desist order to close unlawful land uses or to halt a violation of this Chapter.

Section 74-84 - Judicial Remedies

The City may seek the following judicial remedies or any other judicial remedy as permitted by law to enforce this Chapter in any court of competent jurisdiction:

- A. **Injunctive Relief.** The City may seek an injunction to stop any violation granted under this Chapter. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Chapter is, or may be, an injury to the public health, safety or general welfare or that public health, safety or general welfare may be irreparably injured.
- B. **Abatement.** The City may seek a court order in the nature of mandamus, abatement, or other action to abate or remove a violation, or to otherwise restore the premises in question to the condition in which they existed prior to a violation.