

ORDINANCE NO. 23-S-29

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO AMEND PART III, SCHERTZ CODE OF ORDINANCES, THE UNIFIED DEVELOPMENT CODE (UDC) ARTICLE 3 BOARDS, COMMISSIONS, AND COMMITTEES AND ARTICLE 12 SUBDIVISIONS.

WHEREAS, pursuant to Ordinance No. 10-S-06, the City of Schertz (the “City”) adopted and Amended and Restated Unified Development Code on April 13, 2010, as further amended (the “Current UDC”); and

WHEREAS, City Staff has reviewed the Current UDC and have recommended certain revision and updates to, and reorganization of, the Current UDC;

WHEREAS, on October 11, 2023, the Planning and Zoning Commission conducted a public hearing and thereafter recommended approval; and

WHEREAS, on November 14, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the proposed amendments are appropriate and in the interest of the public safety, health, and welfare.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS: THAT:

Section 1. The current UDC is hereby amended as set forth on Exhibit A and Exhibit B hereto.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this

Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

PASSED ON FIRST READING, the ____ day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the ____ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit "A"

Unified Development Code (UDC) Amendments

Article 3 – Boards, Commissions, and Committees

Sec. 21.3.3. Planning and zoning commission.

- A. *Structure of the Commission.* The Planning and Zoning Commission is established in accordance with the City Charter and Commission members are appointed by the City Council.
- B. *Duties and Approval Authority.*
1. The Planning and Zoning Commission shall have the authority to review and make a recommendation to the City Council on the following applications:
 - a. amendment to the Comprehensive Land Plan;
 - b. establish or amend a zoning district map classification, including creation or amendment of an overlay district;
 - c. rezoning requests including an application for a Specific Use Permit.
 - d. amendment to the UDC; and
 - e. a Development Agreement as set forth in the LGC and this UDC;
 2. The Planning and Zoning Commission shall have final approval authority on the following applications:
 - a. Subdivision Master Plan, if forwarded by the City Manager or his/her designee.
 - b. Site Plan; if forwarded by the City Manager or his/her designee.
 - c. preliminary plat; if forwarded by the City Manager or his/her designee.
 - d. final plat; if forwarded by the City Manager or his/her designee.
 - e. amending plat; if forwarded by the City Manager or his/her designee.
 - f. minor plat; if forwarded by the City Manager or his/her designee.
 - g. replat; if forwarded by the City Manager or his/her designee and
 - h. waivers relating to Article 12, Subdivisions.
 3. The Planning and Zoning Commission shall have the authority to make final determinations relating to appeals of staff determinations on the following items:
 - a. Required Conditions for Home Occupations and denial of a Home Occupation permit.
 - b. Site Design Standards including Tree Preservation & Mitigation, Revisions to Approved Site Plans.
 - c. Signs & Advertising Devices including general requirements, removal of signs.
 - d. Additional Design Requirements including off street parking, building setback lines, and landscape buffers.
 - e. An appeal of a driveway waiver determination.

(Ord. No. 17-S-40 , § 1(Exh. A), 10-24-2017; Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)

Sec. 21.3.5. Administrative authority.

- A. *Authority Granted.* The City Manager or his/her designees shall have such powers and authority as granted by State law, the City Charter, the Code of Ordinances, and this UDC to initiate, undertake, and decide any matters pertaining to the regulation of the use and development of land as identified in this UDC and are authorized to take all actions necessary to carry out their responsibilities in accordance with the requirements and limitations prescribed therein.
- B. *Administrative Structure.* The City Manager is designated as the chief administrative official of the City. The City Manager, at his/her discretion, may designate the director of any department or other employee as the administrative authority responsible for consideration of any item deemed appropriate by the City Manager.
- C. *Duties and Approval Authority.*
 - 1. The City Manager or his/her designee shall have the authority to review and make a recommendation to the appropriate approval body on the following applications:
 - a. amendment to the Comprehensive Land Plan;
 - b. establish or amend a zoning district map classification, including creation or amendment of an overlay district;
 - c. rezoning requests including an applications for a Specific Use Permit;
 - d. amendment of this UDC;
 - e. annexation;
 - f. a Development Agreement within the City's corporate boundaries and in the City's ETJ;
 - g. Historic Landmark or District Designation;
 - h. an appeal of the decision of any City Board, Commission, Committee or staff as authorized by this UDC;
 - i. Subdivision Master Plan;
 - j. subdivision plats, when forwarded to the Planning and Zoning Commission by the City Manager or his/her designee for approval;
 - k. a variance, appeal or other application to be considered by the BOA;
 - l. an interpretation, appeal or other application to be considered by the Building and Standards Commission; and
 - m. an interpretation, waiver, appeal or other application to be considered by the Planning & Zoning Commission.
 - 2. The City Manager or his/her designee shall have approval authority on the following applications:
 - a. a preliminary plat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
 - b. a final plat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
 - c. a replat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;

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- d. a minor plat, as authorized by this UDC and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
 - e. an amending plat, as authorized by this UDC, and LGC Section 212.0065. However, the City Manager or his/her designee may forward the plat to the Planning and Zoning Commission for approval;
 - f. a Certificate of Determination, as authorized by this UDC and LGC Section 212.0115. However, the City Manager or his/her designee may forward the request to the Planning and Zoning Commission for determination;
 - g. a site plan, as authorized by this UDC. However, the City Manager or his/her designee may forward a site plan to the Planning and Zoning Commission for approval; and
 - h. other applications as authorized by this UDC.

(Ord. No. 17-S-40 , § 1(Exh. A), 10-24-2017; Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)

Exhibit "B"

Unified Development Code (UDC) Amendments

Article 12 – Subdivisions

Sec. 21.12.2. General Provisions

- A. The owner of a tract of land located within the City limits or in the ETJ of the City who divides the tract in two (2) or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks, or other parts of the tract intended by the owner of the tract to be dedicated to public use must have a plat of the subdivision prepared. A division of a tract under this section includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.
- B. No person shall create a subdivision of land within the City or within its ETJ without complying with the provisions of this Article, and all plats and subdivisions of any such land shall conform to the rules and regulations set forth in this Article.
- C. In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this UDC by injunction issued by a court of common jurisdiction.
- D. All land subdivided or platted into lots, blocks and streets within the City or within its ETJ, as provided by state law, shall comply in full with the requirements of this UDC. No plat shall be filed in the office of the County Clerk for a tract within the City or its ETJ unless it is approved by the Planning and Zoning Commission or the City Manager or his/her designee, as applicable.
- E. The City has requested each County in which the City is located not to issue a permit for the installation of septic tanks on any lot in a subdivision for which a final plat has not been approved and filed for record, or any lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- F. No permit shall be issued for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein have not been complied with in full.
- G. The City shall not authorize any person nor shall the City itself repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- H. The City shall not authorize any person nor shall the City itself sell or supply any water or sewer service within a subdivision for which a final plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- I. Disapproval of a plat by the City Manager or his/her designee or the Planning and Zoning Commission shall be deemed a refusal by the City to accept the offered dedications shown thereon. Approval of a plat shall not impose any duty upon the City concerning the maintenance or improvement of any such dedicated parts until the proper authorities of the City have actually appropriated the same by entry, use, or improvement. Any such dedication, before or after actual appropriation may be vacated by the City in any manner provided by law.
- J. On behalf of the City, the City Attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this UDC or the standards referred to herein with respect to any violation thereof which occurs within any area subject to all or part of the provisions of this UDC.
- K. In addition thereto, any abutting owner or lessee or other person prejudicially affected by the violation of the terms of this UDC may resort to any court of competent jurisdiction for any writ or writs, or to obtain such relief, either in law or equity, as may be deemed advisable in these premises.

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- L. If any subdivision exists for which a final plat has not been approved or in which the standards contained herein or referred to herein have not been complied with in full, the City Council shall take appropriate action reciting the fact of such noncompliance or failure to secure final plat approval. Reciting the fact of such noncompliance or failure to secure the final plat approval, and reciting the fact that the provisions of subsections 21.12.2.G. through 21.12.2.K. of this Article will apply to the subdivision and lots herein, the City Secretary shall, when directed by the City Council, cause certified copy of such action under the seal of the City to be filed in the deed records of the county or counties in which such subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such action, the City Secretary shall forthwith file an instrument in the Deed Records of such county or counties stating that sections 21.12.2.B. through 21.12.2.K. no longer apply.
- M. The provisions of this Article shall not be construed to prohibit the issuance of permits for any lots upon which a residential building exists and was in existence prior to passage of this UDC nor to prohibit the repair, maintenance, or installation of any street or public utility services for, to or abutting any lot, the last recorded conveyance of which prior to passage of this UDC was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to the passage of this UDC.

Sec. 21.12.8. Preliminary Plat Process

A. *Applicability.*

1. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A Preliminary Plat is required to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable requirements of this UDC.
2. A Preliminary Plat may be submitted for any phase of development consistent with an approved Subdivision Master Plan. Where a Subdivision Master Plan is not required and the area to be platted is part of a larger tract of land, the Preliminary Plat must encompass the entire tract of land under ownership of the subdivider and shall provide a preliminary layout of streets, lots, blocks, utilities and drainage for the larger tract. A final plat may be submitted for individual lots to be platted out of the larger parcel.

B. *Application Requirements.*

1. *Application Required.* Any request for a Preliminary Plat shall be accompanied by an application prepared in accordance with the Development Manual.
2. *Accompanying Applications.* An application for a Preliminary Plat may be accompanied by an application for a Master Plan for the entire area to be platted or for any portion of the proposed Preliminary Plat.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a Preliminary Plat shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee shall forward a copy of the plat to other appropriate departments for review and recommendation.
2. *Preliminary Plat Approval.* In accordance with LGC Section 212.0065, the City Manager or his/her designee may approve a preliminary plat. The City Manager or his/her designee must approve a preliminary plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this UDC. The City Manager or his/her designee may approve with conditions or deny a preliminary plat that does not satisfy all applicable regulations of this UDC. The City Manager or his/her designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Manager or his/her designee or Planning and Zoning Commission, shall act on the plat within thirty (30) days after the date a complete application is filed.
3. *Conditional Approval and Denial.* If the City Manager or his/her designee or the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
4. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Manager or his/her designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Manager or his/her designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission. Action shall be taken by the City Manager or his/her designee or the Planning and Zoning Commission no later than the fifteenth (15th) day after the date the response was submitted.

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5. *Acceptance of Preliminary Plat.* Approval of a Preliminary Plat by the City Manager or his/her designee or the Planning and Zoning Commission shall be deemed as an expression of the approval of the layout submitted on the plat as a guide to the final design of streets, water, sewer and other required improvements and utilities and to the preparation of a final plat in accordance with the requirements of this UDC.
 6. *Appeal to Planning and Zoning Commission.* Any decision to disapprove a plat made by the City Manager or his/her designee may be appealed to the Planning and Zoning Commission.
- D. *Criteria for Approval.* The City Manager or his/her designee or the Planning and Zoning Commission, in considering final action on a Preliminary Plat, should consider the following criteria:
1. the plat is consistent with all zoning requirements for the property or any approved Development Agreement;
 2. the plat conforms to the general layout of the Subdivision Master Plan (if applicable) and is consistent with the phasing plan approved therein;
 3. the proposed provision and configuration of roads, water, wastewater, drainage, and park facilities conform to the master facilities plans for the facilities, including without limitation the water facilities, wastewater facilities, transportation, drainage and other master facilities plans; and
 4. the proposed provision and configuration of roads, water, wastewater, drainage and park facilities, and easements and rights-of-way are adequate to serve the subdivision.
- E. *Expiration and Extension.*
1. *Expiration.* The approval of a Preliminary Plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Manager or his/her designee or the Planning & Zoning Commission, during which period the applicant shall submit and receive approval for a final plat for any portion of the land subject to the Preliminary Plat. If a final plat has not been approved within the two (2) year period, the Preliminary Plat approval, unless extended, shall expire and the plat shall be null and void.
 2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a Preliminary Plat may be extended by the City Manager or his/her designee for a period not to exceed six (6) months. A Preliminary Plat is not subject to reinstatement following expiration.
- F. *Revisions Following Approval of Preliminary Plat.*
1. *Minor Changes.* Minor changes in the design of the subdivision subject to a Preliminary Plat may be incorporated in an application for approval of a Final Plat without the necessity of filing a new application for approval of a Preliminary Plat. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
 2. Major changes include the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the Preliminary Plat, any change to the open space dedication requirement, changes to drainage, changes to flood plain data, and any other changes that may not be included herein as determined by the Planning Department. Major changes shall require submittal of a revised master plan and Preliminary Plat which is submitted and processed the same as a new Master Development Plan application and new Preliminary Plat application.

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3. *Amendments.* All other proposed changes to the design of the subdivision subject to an approved Preliminary Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat before approval of a Final Plat.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018; Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)

Sec. 21.12.10. Final Plat Process

A. *Applicability.*

1. The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A Final Plat is required to assure that the division or development of the land subject to the plat is consistent with all standards of this UDC pertaining to the adequacy of public facilities, that public improvements to serve the subdivision or development have been installed and accepted by the City or that provision for such installation has been made, that all other requirements and conditions have been satisfied or provided for to allow the plat to be recorded, and to assure that the subdivision or development meets all other standards of this UDC to enable initiation of site preparation activities for any lot or tract subject to the plat. Approval of a Final Plat shall be required prior to any non-exempt division of land and prior to any site preparation activities for a lot or tract of land that requires installation of public improvements on or adjacent thereto.
2. A Final Plat may be submitted for any phase of development consistent with an approved Preliminary Plat.

B. *Application Requirements*

1. *Application Required.* Any request for a Final Plat shall be accompanied by an application prepared in accordance with the Development Manual.
2. *Accompanying Applications.* An application for a Final Plat shall be accompanied by a letter of approval from the City Engineer and/or the Director of Public Works approving the public infrastructure improvement construction plans showing details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers and other engineering details of the proposed subdivision. Such plans shall be prepared by a registered professional engineer and shall conform to the standard specifications established by the City. Approval of any public infrastructure improvement plans is required prior to Final Plat application.

C. *Processing of Application and Decision.*

1. *Submittal.* An application for a Final Plat shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee shall forward a copy of the plat to other appropriate departments for review and recommendation.
2. *Final Plat Approval.* In accordance with LGC Section 212.0065, the City Manager or his/her designee may approve a final plat. The City Manager or his/her designee must approve a final plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this UDC. The City Manager or his/her designee may approve with conditions or deny a final plat that does not satisfy all applicable regulations of this UDC. The City Manager or his/her designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Manager or his/her designee or Planning and Zoning Commission, shall act on the plat within thirty (30) days after the date a complete application is filed.
3. *Conditional Approval and Denial.* If the City Manager or his/her designee or the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.

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4. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Manager or his/her designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Manager or his/her designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission. Action shall be taken by the City Manager or his/her designee or the Planning and Zoning Commission no later than the fifteenth (15th) day after the date the response was submitted.
 5. *Appeal to Planning and Zoning Commission.* Any decision to disapprove a plat made by the City Manager or his/her designee may be appealed to the Planning and Zoning Commission.
- D. *Criteria for Approval.* The City Manager or his/her designee or the Planning and Zoning Commission, in considering final action on a Final Plat, should consider the following criteria:
1. the Final Plat conforms to the approved Preliminary Plat, except for minor changes that may be approved without the necessity of revising the approved Preliminary Plat; and
 2. the final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this UDC.
- E. *Expiration and Extension.*
1. *Expiration.* The approval of a Final Plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Manager or his/her designee or the Planning and Zoning Commission, during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the Final Plat has not been recorded within the two (2) year period, the Final Plat approval, unless extended, shall expire and the plat shall be null and void.
 2. *Extension.* At the request of the property owner or their representative, the expiration date for approval of a Final Plat may be extended by the City Manager or his/her designee for a period not to exceed six (6) months. A Final Plat is not subject to reinstatement following expiration.
- F. *Revisions Following Approval of Final Plat.*
1. *Minor Changes.* An applicant may make minor changes to an approved Final Plat to reflect changes arising from installation of public improvements thereafter, provided that the approved Final Plat has not been recorded and that approval of the revised Final Plat occurs prior to expiration of approval of the initial Final Plat application. The City Manager or his/her designee is authorized to approve minor changes to an approved Final Plat. If the approved Final Plat has been recorded, an amending plat or replat must be approved and recorded. Minor changes shall include a revision to plat notes, a revision to street or alley lengths, scrivener's errors, adjustment of lot lines that do not result in the increase or creation of additional lots or additional acreage, or changes or clarifications to easements, provided that such changes are consistent with any approved prior applications.
 2. *Major Changes.* Major changes include the reconfiguration of street or alley alignments, the addition of streets or alleys, an increase in the number of lots or acreage, the addition or revision of a unit previously approved by the Preliminary Plat, any change to the open space dedication requirement, changes to drainage, changes to flood plain data, and any other changes that may not be included herein as determined by the City Manager or his/her designee. Major changes shall require submittal of a revised Final Plat which is submitted and processed the same as a new final plat application.
 3. *Amendments.* All other proposed changes to the design of the subdivision subject to an approved Final Plat shall be deemed major amendments that require submittal and approval of a new application for approval of a Preliminary Plat before approval of a Final Plat. Approval of major revisions to an

approved Preliminary Plat shall occur prior to the date any approved Subdivision Master Plan would have expired for the same land.

- G. *Recording Procedures.* After approval of a Final Plat and acceptance of required public improvements or execution of an Improvement Agreement pursuant to Sec. 21.4.15, the applicant may submit all necessary items to the City to record the plat in the County Land Records. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Manager or his/her designee shall sign the plat and shall promptly cause the plat to be recorded. If the final plat was forwarded to the Planning and Zoning Commission, the City Manager or his/her designee shall procure the signature of the chair of the Planning and Zoning Commission on the plat and shall promptly cause the plat to be recorded. No Final Plat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a Tax Certificate from the applicable school district and county tax office has been received for the subject property.

(Ord. No. 17-S-41 , § 1(Exh. A), 10-24-2017; Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018; Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)

Sec. 21.12.13. Replat Process.

- A. *Applicability.* The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A replat is any plat that complies with LGC sections 212.014, 212.0145, and 212.015, as amended, which is generally submitted to replat a subdivision or part of a subdivision without vacation of the original plat. Replatting a portion of a recorded lot is not permitted. A replat does not itself constitute approval for development of the property.
- B. *Application Requirements.* Any request for a replat shall be accompanied by an application prepared in accordance with the Development Manual.
- C. *Processing of Application and Decision.*
 - 1. *Submittal.* An application for a replat shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee shall forward a copy of the plat to other appropriate departments for review and recommendation. After appropriate review, the City Manager or his/her designee may forward a recommendation to the Planning and Zoning Commission for consideration, when applicable.
 - 2. *Notification Requirements for Certain Replats.*
 - a. *Applicability.* An application for a replat which is also accompanied by a waiver or variance request requires a public hearing and notice if:
 - i. during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or
 - ii. any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - b. *Public hearing notice.* Notice of the public hearing shall be given at least sixteen (16) calendar days before the date of the public hearing by:
 - i. Publication in an official newspaper or a newspaper of general circulation in the county in which the City is located; and
 - ii. Written notice with a copy of LGC Sec. 212.015(c) attached, mailed to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested.
 - 3. *Replat Approval.* In accordance with LGC Section 212.0065, the City Manager or his/her designee may approve a replat. The City Manager or his/her designee must approve a replat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this UDC. The City Manager or his/her designee may approve with conditions or deny a replat that does not satisfy all applicable regulations of this UDC. The City Manager or his/her designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Manager or his/her designee or Planning and Zoning Commission, shall act on the plat within thirty (30) days after the date a complete application is filed.
 - 4. *Conditional Approval and Denial.* If the City Manager or his/her designee or the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial.

Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.

5. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Manager or his/her designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Manager or his/her designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission. Action shall be taken by the City Manager or his/her designee or the Planning and Zoning Commission no later than the fifteenth (15th) day after the date the response was submitted.
 6. *Appeal to Planning and Zoning Commission.* Any decision to disapprove a plat made by the City Manager or his/her designee may be appealed to the Planning and Zoning Commission.
- D. *Criteria for Approval.* The City Manager or his/her designee or the Commission in considering final action on a replat should consider the following criteria:
1. the replat is consistent with all zoning requirements for the property, all other requirements of this UDC that apply to the plat, and any regulations contained in an approved Development Agreement;
 2. the replat is signed and acknowledged by only the owners of the property being replatted;
 3. a public hearing was held and parties in interest and citizens have had an opportunity to be heard, if applicable; and
 4. the replat does not attempt to amend or remove any covenants or restrictions.
- E. *Protests.* If the replat application meets the applicability requirements of Subsection C.2 above and is protested in accordance with this section, approval of the replat shall be presented by the City Manager or his/her designee to the Planning & Zoning Commission and shall require the affirmative vote of at least three-fourths ($\frac{3}{4}$) of the members of the Planning and Zoning Commission present at the meeting to be approved. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the replat application and extending 200 feet from that area, but within the original subdivision, must be filed with the Planning and Zoning Commission prior to the close of the public hearing. In computing the percentage of land area under this section, the area of streets and alleys shall be included.
- F. *Notification of Approval for Certain Replats.* If a proposed replat does not require a variance or exception but meets the applicability of either Subsections C.2.a.i or ii above, the municipality shall, not later than the 15th calendar day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll. This subsection does not apply to a proposed replat if the Planning & Zoning Commission holds a public hearing and gives notice of the hearing in the manner provided by in Subsection C.2.b above.
1. The notice of a replat approval must include:
 - a. the zoning designation of the property after the replat; and
 - b. a telephone number and e-mail address an owner of a lot may use to contact the City about the replat.
- G. *Expiration and Extension.*
1. *Expiration.* The approval of a replat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Manager or his/her designee or the

Planning and Zoning Commission, during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the replat has not been recorded within the two (2) year period, the plat approval shall expire and the plat shall be deemed null and void.

2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a replat may be extended by the City Manager or his/her designee for a period not to exceed six (6) months. A replat is not subject to reinstatement following expiration.
- H. *Plat Recordation.* After approval of a Replat Plat and acceptance of required public improvements or execution of an Improvement Agreement pursuant to Sec. 21.4.15, if applicable, the applicant may submit all necessary items to the City to record the plat in the County Land Records. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Manager or his/her designee shall sign the plat and shall promptly cause the plat to be recorded. If the final plat was forwarded to the Commission, the City Manager or his/her designee shall procure the signature of the chair of the Planning and Zoning Commission on the plat and shall promptly cause the plat to be recorded.

(Ord. No. 18-S-04 , § 1(Exh. A), 1-23-2018; Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)

Sec. 21.12.14. Vacating plat process.

- A. *Applicability.* The provisions of this section are authorized under LGC Chapter 212 and shall be applicable to all areas within the City's limits and throughout the City's ETJ. A vacating plat does not itself constitute approval for development of the property.
- B. *Application Requirements.* Any request for a vacating plat shall be accompanied by an application prepared in accordance with the Development Manual as well as an application for a replat.
- C. *Processing of Application and Decision.*
 - 1. *Submittal.* An application for a vacating plat shall be submitted to the City Manager or his/her designee. The City Manager or his/her designee shall review the application for completeness in accordance with section 21.4.2. The City Manager or his/her designee shall forward a copy of the plat to other appropriate departments for review and recommendation.
 - 2. *Vacating Plat Approval.* In accordance with LGC Section 212.0065, the City Manager or his/her designee may approve a vacating plat. The City Manager or his/her designee must approve a vacating plat that is required to be prepared in accordance with this section and that satisfies all applicable regulations of this UDC. The City Manager or his/her designee may approve with conditions or deny a vacating plat and/or replat that does not satisfy all applicable regulations of this UDC. The City Manager or his/her designee may, for any reason, elect to present the plat for approval to the Planning and Zoning Commission. The City Manager or his/her designee or Planning and Zoning Commission, shall act on the plat within thirty (30) days after the date a complete application is filed.
 - 3. *Conditional Approval and Denial.* If the City Manager or his/her designee or the Planning and Zoning Commission conditionally approves or denies the plat, a written statement must be provided to the applicant clearly articulating each specific condition for the conditional approval or reason for denial. Each condition or reason specified in the written statement may not be arbitrary and must include a citation to the regulation, ordinance, or law that is the basis for the conditional approval or denial.
 - 4. *Applicant Response to Conditional Approval or Denial.* After the conditional approval or denial of a plat, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for denial provided. The City Manager or his/her designee shall determine whether to approve or deny the applicant's response to the previously conditionally approved or denied plat. The City Manager or his/her designee may for any reason elect to present the applicant's response for approval to the Planning and Zoning Commission. Action shall be taken by the City Manager or his/her designee or the Planning and Zoning Commission no later than the fifteenth (15th) day after the date the response was submitted.
 - 5. *Appeal to Planning and Zoning Commission.* Any decision to disapprove a plat made by the City Manager or his/her designee may be appealed to the Planning and Zoning Commission.
- D. *Criteria for Approval.* The City Manager or his/her designee or the Planning and Zoning Commission in considering final action on a vacating plat should consider the following criteria:
 - 1. the vacating plat is consistent with all zoning requirements for the property, all other requirements of this UDC that apply to the plat, and any regulations contained in an approved Development Agreement;
 - 2. the vacating plat is signed and acknowledged by all owners of lots in the original plat.
- E. *Expiration and Extension.*
 - 1. *Expiration.* The approval of a vacating plat shall remain in effect for a period of two (2) years after the date the application was approved or conditionally approved by the City Manager or his/her designee

or the Planning and Zoning Commission, during which period the applicant shall submit any required revisions for approval and recordation of the plat. If the vacating plat has not been recorded within the two (2) year period, the plat approval shall expire and the plat shall be deemed null and void.

2. *Extension.* At the request of the property owners or their representative, the expiration date for approval of a vacating plat may be extended by the City Manager or his/her designee or the Planning and Zoning Commission, if the request is forwarded by the City Manager or his/her designee, for a period not to exceed six (6) months. A vacating plat is not subject to reinstatement following expiration.
- F. *Recording Procedures.* After approval of a Vacating Plat and associated Replat, acceptance of required public improvements or execution of an Improvement Agreement pursuant to Sec. 21.4.15, if applicable, the applicant may submit all necessary items to the City to record the vacating plat and replat in the County Land Records. Upon receipt of the plat recording submittal and notification of acceptance of required public improvements or execution of an Improvement Agreement, the City Manager or his/her designee shall sign the plat and shall promptly cause the plat to be recorded. If the vacating plat and associated replat was forwarded to the Commission, the City Manager or his/her designee shall procure the signature of the chair of the Planning and Zoning Commission on the plat and shall promptly cause the plat to be recorded. No vacating plat and associated replat will be received for recording until all back taxes owed to the City have been paid in full and a certified copy of a Tax Certificate from the applicable school district and county tax office has been received for the subject property.
- G. The City, at its discretion, shall have the right to retain all or specific portions of road right-of-way or easements shown on the plat being considered for vacation. However, the City shall consider a request for vacating a plat upon satisfactory conveyance of easements or right-of-way in a separate legal document using forms provided by the City Attorney's office.

(Ord. No. 19-S-22 , § 1(Exh. A), 9-3-2019)