

ORDINANCE 2020-O-058

AN ORDINANCE OF THE CITY OF ATHENS, TEXAS, REPEALING AND REPLACING IN ITS ENTIRETY CHAPTER 17 OF THE CITY OF ATHENS CODE OF ORDINANCES ENTITLED SUBDIVISIONS PROVIDING A SEVERABILITY CLAUSE, A REPEALER CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Athens, Texas seeks to regulate and govern the conditions of public and private construction projects to protect and provide for the health, safety and general welfare of the community by promoting sustainable development of the area both within the City of Athens and its extraterritorial jurisdiction;

WHEREAS, on December 4th, 1972 the City Council adopted and made effective the City of Athens Municipal Code of Ordinances and included in said code Chapter 17 entitled Subdivisions;

WHEREAS, it has been deemed that Chapter 17 titled Subdivisions is outdated and not compliant with current municipal practices or City policy;

WHEREAS, staff recommends the repeal and replacement of Chapter 17 entitled Subdivisions;

WHEREAS, on the 22nd day of June 2020, the City Council of the City of Athens, Texas after due notice read aloud the ordinance amendment for the first time as required by Article III, Section 3.11 of the City of Athens Charter.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS:

Section 1. The Code of Ordinances of the City of Athens, Texas is amended to reflect the repeal of Chapter 17, entitled Subdivisions, and replaced in its entirety as follows:

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Chapter 17 – SUBDIVISIONS

ARTICLE I – IN GENERAL

Sec. 17-1. – Subdivision regulations adopted.

The regulations contained in this chapter are hereby adopted and may be cited as the Subdivision Regulations of the City of Athens. They shall govern the subdivision and development of land within the City of Athens and its extraterritorial jurisdiction.

Sec. 17-2. – Purpose.

The purposes of these regulations are:

- 1) To protect and provide for the public health, safety, and general welfare of the community by promoting sustainable development of the area both within the city and within its extraterritorial jurisdiction.
- 2) To guide the future growth and development of the city in accordance with this Ordinance, the Comprehensive Master Plan of the City of Athens and any adopted constituent elements, and all other development related ordinances of the city.
- 3) To promote safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
- 4) To ensure that public and private development are served by adequate public facilities and services with sufficient capacity for efficient transportation, water, sanitary sewer, drainage, and other public requirements and facilities, and that the development bear its fair share of the cost of providing the facilities and services.
- 5) To establish policies governing traffic flow and safety on street facilities, minimize traffic congestion, improve traffic safety and flow, and ensure that traffic generated from the proposed development can be adequately and safely served by the existing and future street system.
- 6) To establish reasonable standards of design and procedures for platting to further the orderly layout and use of land and to promote proper legal descriptions and monumenting of platted land.
- 7) To minimize the pollution of streams and ponds; to provide for the adequacy of drainage facilities; to control stormwater runoff; to minimize erosion and siltation problems; to safeguard the water table; to encourage the wise use and management of natural resources; and enhance the stability and beauty of the community and the value of the land.
- 8) To remedy the problems associated with illegally subdivided lands and/or previously platted lands, including premature subdivision, incomplete subdivision, or scattered subdivision of land.

Sec. 17-3. – Applicability.

- 1) The owner or proprietor of any tract of land who desires to subdivide land (i.e., to create a “subdivision”) shall submit a plat of the subdivision to the Administrator. The Administrator shall review the plat and make recommendations for changes necessary to for compliance with the regulations of this Ordinance. The plat will then be reviewed by the Planning Commission. The Planning Commission will make a recommendation for the City Council which will have final approval of the plat.

- 2) No person shall subdivide land without making and recording a plat and complying fully with this chapter.
- 3) No person shall sell or transfer ownership of any lot or parcel of land by reference to plat of a subdivision before the plat is duly recorded with Henderson County, unless the subdivision was created prior to the adoption of this Ordinance.
- 4) The city will withhold improvements of any nature whatsoever, including the maintenance of streets and furnishing of sewage facilities and water service from all additions until the subdivision plat has been approved by the City Council with the recommendation of the Planning Commission. No improvements shall be initiated, nor any contracts executed, until this approval has been given.
- 5) The following are allowed only if they conform to this Ordinance:
 - a) The issuance of a development approval or certificate of occupancy for any plat, map, or plan that was created prior to subdivision approval under this Ordinance.
 - b) The issuance of a development approval or certificate of occupancy for any parcel or plat of land that was created after the effective date of this Ordinance.
 - c) The excavation of land or construction of any public or private improvements.
- 6) A subdivision plat is not required for any of the following:
 - a) The public acquisition by purchase of strips of land for the widening or opening of streets.
 - b) In accordance with Section 212.004(a) of the Texas Local Government Code, a division of land under this chapter does not include a division of land into parts greater than five (5) acres where each part has access and no public improvement is being dedicated.
- 7) Any owner of an unplatted single tract of land shall submit for approval and have filed or record a plat of the tract prior to the commencement of construction or issuance of a building permit. However, nothing in these regulations requires a plat to be approved and recorded as a prerequisite to construction under the following conditions:
 - a) The tract is zoned residential, and the construction is for any of the following purposes, and the addition or alteration conforms with the Zoning Ordinance:
 - i. Adding to or altering an existing lawfully conforming single-family building or structure.
 - ii. Adding a fence on the tract.
 - iii. Adding an accessory building or structure to an existing lawfully conforming single-family use.
 - b) The tract is not zoned residential as noted above or is zoned residential but contains a permitted non-residential land use, the construction is for any of the following purposes, and the alteration conforms with the Zoning Ordinance:
 - i. Adding an accessory building to an existing lawfully conforming use on the same tract.
 - ii. Adding a fence on the tract.
 - iii. Remodeling or altering an existing commercial or industrial building.
 - iv. Adding a wireless communications antenna to an existing utility transmission tower or existing telecommunications tower.
 - v. Any improvement that does not create infrastructure impacts or more intensive development than the exceptions listed above.

Sec. 17-4. – Definitions.

Any office referred to in this chapter by title, i.e., City Manager, City Attorney, City Secretary, etc., shall be the person retained in this position by the City, or his or her duly authorized designee.

Administrator. The City Manager or his or her duly authorized designee.

Alley. A minor public right-of-way which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Arterial Street. A major street that is a principal traffic artery continuous across the city, which is intended to connect remote parts of the city or areas adjacent thereto, and act as a principal connecting street with state and federal highways. Residential driveways shall be discouraged from entering onto arterial streets.

Building Line. The building line shall be the line beyond which buildings must be set back from the street or road right-of-way line on which the property fronts.

City. The City of Athens, Texas, together with all its governing and operating bodies.

Collector Street. A secondary street which is continuous through several districts and is intended as a connecting street between the districts and provides access to arterial streets and highways, business areas, and places of employment.

Comprehensive Master Plan. The Comprehensive Master Plan of City of Athens and adjoining areas recommended by the Planning and Zoning Commission and adopted by the City Council, including all its revisions. The Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, and other public and private developments and improvements.

Council. The duly elected governing body of the City of Athens.

Cul-De-Sac. A short, minor street having but one (1) vehicular access to another street and terminated by a vehicular turn-around.

Engineer. A person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

Governing Body. The City Council of the City of Athens or any duly appointed official, officer or agency designated by the council to execute the provisions of city ordinances.

Letter of Credit. A legal, binding letter from a financial institution reserving a specific dollar amount to guarantee public improvements to a subdivision.

Lot. An undivided tract or parcel of land having frontage on a public street and designated as a distinct and separate tract, which is, or in the future may be offered for sale, conveyance, transfer, or improvement as a building site.

Minor Street. A street used primarily for access to the abutting properties.

Planning Commission. The body appointed by the City Council under provisions of the City Code of Ordinances to act as an advisory body to the City Council in planning and zoning matters and officially designated as the Planning and Zoning Commission.

Plat. Any plat of any lot, tract, or parcel of land requested to be filed for record in the Office of the County Clerk of Henderson County.

Public Improvements. Any street, utility, right-of-way, or park land dedicated for public benefit or use.

Replat. The rearrangement of any part or all of any block or blocks of a previously platted subdivision, addition, lot, or tract. All approved replats shall be filed for record in the Office of the County Clerk of Henderson County.

Resubdivision. The division of an existing subdivision, together with any changes of lot size therein, or with the relocation of any street right-of-way lines.

Shall and May.

- 1) The word “shall” shall be deemed as mandatory.
- 2) The word “may” shall be deemed as permissible.

Street. A way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, place, or otherwise designated.

Street Width. The shortest distance measured from back of curb to back of curb.

Subdivision. The division of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of the city, in two (2) or more parts for the purpose, whether immediate or future, for transfer of ownership, building development, or dedication of public improvements. Subdivision includes resubdivision, but it does not include the division of land for agricultural purposes or the division of land into parts greater than five (5) acres where each part has access and no public improvement is being dedicated.

Surveyor. A person duly licensed by the Texas Board of Professional Engineers and Land Surveyors to practice the profession of surveying.

ARTICLE II – PLATTING REQUIREMENTS

Sec. 17-5. – Division of property.

- 1) Every owner of any tract of land who divides the tract into two or more parts shall cause a plat to be made which accurately describes and locates the entire tract by metes and bounds as required in this Ordinance.
- 2) A division of a tract under this Ordinance includes a division regardless of whether it is made by using a metes and bounds description un 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.
- 3) No plat may be recorded and no transfer of title to any part of a tract of land shall be made until a plat, accurately describing the property to be conveyed, is approved in accordance with these provisions and recorded.

Sec. 17-6. – Permits for construction activity or public improvements.

- 1) Except as provided in Section 17-3, the Administrator shall not issue permits for any construction activity or allow any public improvements for a development until a plat is approved and filed of record.

- 2) Upon written request from the developer, the Administrator may allow the construction of public improvements prior to plat recording with accepted plans and development agreements.
 - a) In order for the request to be granted, the developer must demonstrate that an inability to record the plat within a reasonable timeframe is the result of recording requirements that do not have a substantive impact upon the development of the land.
 - b) If the city allows the development of public improvements prior to plat recording, the city shall not accept those improvements until a plat is filed of record.
- 3) No building permit shall be issued nor shall any public utility service be provided for land without a plat as required by this Ordinance unless exempt under Texas Local Government Code Chapter 212.

Sec. 17-7. – Development of land outside the city limits.

- 1) The standards in this chapter shall apply to all subdivision within the city’s extraterritorial jurisdiction subject to the provisions in Texas Local Government Code Chapter 212, as amended. Anyone wishing develop land within the city’s extraterritorial jurisdiction shall file a subdivision plat with the city. Plats filed within the extraterritorial jurisdiction shall be designed and developed in accordance with the city’s regulations. Final plats approved by the city shall be filed of record with the County Clerk of Henderson County. No construction will be permitted on the tract until the plat is filed of record.
- 2) Those wishing to petition for annexation may file a written petition with the City Manager. No fee is charged by the City for processing annexation petitions. An appropriate zoning classification shall be established by ordinance on all territory herein after annexed into the city and shall thereafter be subject to the rules and regulations of the City of Athens.

Sec. 17-8. – Guiding policies for administration of this article.

Proposed plats or subdivisions that do not conform to the purposes listed above and the following policies and regulations shall be denied. These regulations shall be administered in accordance with the following policies.

- 1) Conformity with the Comprehensive Plan: Plats and proposed public improvements shall conform to the City’s Comprehensive Plan and any adopted constituent elements, including the Master Thoroughfare Plan, and all other plans or development related ordinances of the city.
- 2) Conformity with the Zoning Ordinance: No subdivision shall be approved unless it complies with all applicable zoning, design, and development regulations set forth in the Zoning Ordinance, including but not limited to:
 - a) The requirements of the zoning district in which the property is located
 - b) The requirements relevant to specific uses
 - c) The Infrastructure Design Guidelines
- 3) Sites and Access for Comprehensive Plan Elements: Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the City’s Comprehensive Plan and all applicable ordinances shall be provided in accordance with the intent, policies, and provisions of this Ordinance.
- 4) Developer Responsibility: The developer is responsible for the accuracy of all information furnished in the design of facilities as they pertain to both the proposed development and other properties affected by the proposed development. The city’s concurrence in the design does not relieve the developer of this responsibility.
- 5) Effect of Development on General Welfare: The nature, shape, and location of land to be platted or developed shall enable it to be used without danger to health or increased risk of fire, floods, erosion, stormwater pollution, landslides, or other menaces to general welfare.

Sec. 17-9. – Pre-application meeting.

- 1) The purpose of the pre-application meeting is to provide an opportunity for an informal evaluation of an applicant's proposal and for the applicant to become familiar with the City of Athens' submittal requirements, development standards, and approval criteria. The Administrator or designee may provide recommendations and/or inform the applicant of any potential issues that might be presented to the applicable decision-making body. This provides an opportunity to address any major issues before the applicant and the city spend substantial time and expense on the application.
- 2) City staff shall coordinate with the applicant and facilitate the meeting, including scheduling the time and location of the meeting. At the meeting, city staff may:
 - a. Determine the required application(s) and the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially).
 - b. Provide the applicant with application materials and inform the applicant of submittal requirements and procedures.
 - c. Provide the applicant with an estimated time frame for the review process.
 - d. Based on a conceptual plan of the proposal (if required), generally discuss compliance with the ordinance's zoning, use, density, and design and development standards, and attempt to identify any potentially significant issues regarding compliance.
 - e. Refer the applicant to other departments or agencies to discuss any potential significant issues prior to application submittal.
 - f. Consider or answer questions by the applicant relating to the application process, the standards established in this Ordinance, required documents, fees, and any other inquiries relating to the application.
- 3) Applicants are advised that the meeting should take place prior to any substantial investment in time or resources, such as a land acquisition for a proposed development, site and engineering design, or the preparation of other data.
- 4) The informal evaluation and recommendations provided by the staff during a pre-application meeting shall not be considered binding upon the applicant or the city.

Sec. 17-10. – Application submittal and completeness determination.

This section applies to any application that is subject to this Ordinance.

- 1) The applicant shall submit to the Administrator all the information required in the application packet, along with any information identified in any pre-application meeting and all required information stated elsewhere in this Ordinance for the type of application.
 - a. No application is complete unless all the information required by this Ordinance, and any application materials required by the Administrator are included, and all required application fees are paid. An application is not considered filed until it is complete. The Administrator may allow the applicant to submit any required information later in the review process in order to complete final action on the application.
 - b. The applicant shall file an application in advance of any required public hearing or public meeting where the application is considered. The Administrator may establish a schedule for filing and reviewing any application that requires action by the City Council or other City board. The schedule shall provide adequate time for review, notice and/or publication consistent with the applicable Statutes and this Ordinance. Completed applications shall be filed according to any published schedule.
- 2) The Administrator shall make a determination of application completeness within ten (10) business days of application filing. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this Ordinance.

- a. An application will be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the application packet, this Ordinance, by the Administrator, and is accompanied by the applicable fee.
- b. If the application is determined to be incomplete, the Administrator shall provide notice to the applicant that includes an explanation of the application deficiencies. No further processing of an incomplete application shall occur until the deficiencies are corrected in a new application.
- c. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed void and a new application must be submitted together with payment of applicable development review fees.
- d. Whenever this Ordinance establishes a time period for processing an application, the time period does not begin until the Administrator has reviewed the application for completeness and, if necessary, the applicant has corrected all deficiencies in the application and all applicable fees have been paid. The date the plat application is determined to be complete shall constitute the official filing date of the plat from which the statutory period requiring formal approval or disapproval of the plat shall commence.

Sec. 17-11. – Application review.

- 1) Following a determination that an application is complete; the Administrator shall circulate the application to staff and appropriate city departments and other entities for review.
- 2) In addition to staff, the Administrator may also refer applications to other boards, commissions, government agencies, and nongovernmental agencies not referenced in this Article.
- 3) The Administrator may request a meeting with the applicant to discuss the application and any written comments. Based on the written comments, the applicant shall have an opportunity to revise the application prior to further processing. Additional submittals and reviews may be subject to additional fees as determined by the Administrator.
- 4) No plat shall be considered by the decision-making authority, as applicable, until it has been determined that the submittal is complete and in conformance with the requirements of this Ordinance.
- 5) For plats, action shall be taken by the City Council within thirty (30) days of the official filing date unless a waiver is signed by the applicant, as applicable.
- 6) A plat is considered approved if the approving body fails to act on a plat within the prescribed period. Provided however, the applicant may request a deferral of action on the subdivision application, thereby waiving the thirty (30) day time period for action by the approving body, provided said request is submitted in writing.

Sec. 17-12. – Procedure for conditional approval of preliminary plat.

- 1) The purpose of a preliminary plat shall be to determine the general layout of the subdivision, the adequacy of public facilities, and the overall compliance of the subdivision with applicable requirements of the City Code of Ordinances. Preliminary plans shall be approved prior to any land subdivision and commencement of any new development or construction project, except under the following conditions:
 - a) A preliminary plat is not required when a minor plat is submitted; or
 - b) A preliminary plat is not required when a final plat is submitted along with construction plans and a Developer’s agreement and/or appropriate surety.
- 2) Four (4) paper copies and one PDF copy of the preliminary plat and supplementary materials specified shall be submitted to the Department of Development Services with written application for conditional approval along with the plat application fee. The City Council shall act on the plat within thirty (30) days of being declared complete for consideration by the Administrator.

- 3) Supplementary materials referred to above means preliminary plans for water, sewer, drainage, and paving. Other plans may be required as deemed necessary by the Administrator. Four (4) paper copies and one (1) PDF copy of the supplementary materials shall be submitted.
 - 4) Items Required on the Plat. The preliminary plat shall be drawn to scale no smaller than one hundred feet (100') to one inch (1") and show the following:
 - a) Boundary lines, bearings, and distance to locate the exact area proposed for the subdivision.
 - b) The name and location of all adjoining subdivisions shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to accurately show the existing streets, alleys, and other features that may influence the layout and development of the proposed subdivision. Adjacent unplatted land shall show property lines and owner of record.
 - c) The locations, dimensions, description, name and purpose of all existing or proposed streets, alleys, reservations, easements, and rights-of-way. Proposed street names shall be included.
 - d) The location of all existing property lines, buildings, utility lines, sewer and water mains, gas mains, easements, culverts, or other existing structures or features within the area proposed for subdivision. Pipe sizes shall be included with all applicable utility lines identified.
 - e) The layout, numbers, setback lines, and dimensions of proposed blocks and lots and proposed use of the same. All lots, plots, or building sites in any original subdivision shall be numbered consecutively from one (1) to the total number of lots in the block. Block numbers may be used to identify large tracts expected to be resubdivided.
 - f) Topographic data on a contour base with all elevations referenced to the Flood Insurance Rate Map (FIRM). The contours shall be shown at intervals of two feet (2').
 - g) The proposed name of the subdivision, the name and address of the owner with sufficient data to show ownership, and the name of the surveyor preparing the preliminary plat.
 - h) The tract designation according to the real estate records of the office of the Henderson County Clerk.
 - i) Sites, if any, to be reserved or dedicated for parks, playgrounds, or other public uses, together with the purpose of conditions or limitation of such reservations, if any.
 - j) Scale, north arrow, date, and other pertinent data.
 - k) Vicinity map.
 - l) Planning Commission Certificate of Approval, to be placed on the plat:
Conditionally approved on this ____ day of _____, 20__, by the Planning and Zoning Commission of the City of Athens, Texas.
- _____
- Chairperson
- _____
- Secretary
- m) The following notice shall be included on the face of each preliminary plat: "Preliminary plat – for inspection purposes only, and in no way official or approved for record purposes."
- 5) Application Review:
 - a) City staff shall review the preliminary plat and other material submitted for conformity thereof to these regulations and shall make recommendations for negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made. These recommendations shall be made in writing.
 - b) Utility companies shall review all preliminary plats and provide appropriate input to ensure that utility improvements will not hinder development. This input may require the submission of utility construction plans.

- 6) Following the review of the preliminary plat and other material submitted for conformity thereof to these regulations, and negotiations with the subdivider on changes deemed advisable, the Planning Commission shall act thereon as submitted, or modified, and if approved, shall express its conditional approval and state in writing the conditions of such approval. If not approved, the Planning Commission shall express its disapproval and reasons, therefore, in writing. Written conditional approvals and denials shall state the basis for the decision with references to the applicable state law or ordinance. The applicant may appeal a Planning Commission decision to deny or conditionally approve a preliminary plat to the City Council.
- 7) The following criteria shall be used by the Planning Commission and the City Council, if appealed, to determine whether the application for a preliminary plat shall be approved, approved with conditions, or denied:
 - a) The preliminary plat is consistent with all zoning requirements for the property, including any applicable Planned Development District standards, and with any approved conditions as applicable.
 - b) The proposed provision and configuration of public improvements including but not limited to, roads, water, wastewater, storm drainage, park facilities, open spaces, habitat restoration, easements, and rights-of-way are adequate to serve the development, meet applicable standards of this Ordinance, and conform to the city's adopted master plan for those facilities.
 - c) The preliminary plat is designed in accordance with the city's interlocal agreements with Henderson County if the proposed development is located in whole or in part of the extraterritorial jurisdiction of the city.
 - d) The preliminary plat has been duly approved by all required city staff.
 - e) The preliminary plat conforms to the design requirements and construction standards as set forth in this Ordinance and the Infrastructure Design Standards.
 - f) The proposed development does not endanger the public health, safety, or welfare.
- 8) Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather it shall be deemed an expression of approval to the layout submitted on the preliminary plat as a guide to the preparation of the final plat. The final plat will be submitted for approval of the City Council, upon recommendation of the Planning Commission, and for recording upon fulfillment of the requirements of these regulations and the conditions of the conditional approval, if any.
- 9) The following amendments may be made to a preliminary plat following approval:
 - a) Minor amendments – Minor amendments to the design of the development subject to an approved preliminary plat may be incorporated in an application for approval of a final plat without the necessity of filing a new application for re-approval of a preliminary plat. Minor amendments may only include minor adjustments in street or alley alignments, lengths and paving details, and minor adjustments to lot lines that do not result in the creation of additional lots or any non-conforming lots, and provided that such amendments are consistent with prior approved applications.
 - b) Major amendments – All other proposed changes to an approved preliminary plat shall be deemed major amendments that require submittal and approval of a new application of a preliminary plat before approval of construction plans and/or a final plat.
 - c) The Administrator shall make a determination of whether proposed amendments are deemed to be minor or major.
- 10) Recording. A preliminary plat is not recorded. The Administrator shall maintain the approved preliminary plat in accordance with state law and city records retention policies.

Sec. 17-13. – Procedure for approval of a final plat.

- 1) The purpose of a final plat is to ensure that the proposed development of the land is consistent with all standards of City the Code of Ordinances pertaining to the adequacy of public facilities, that public improvements to serve the 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 final plat to be recorded. A final plat is not required when a minor plat is submitted.
- 2) Should the property have a prior approved preliminary plat, the final plat shall conform substantially to the preliminary plat, and if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which is proposed to be developed at the time, provided, however, that such portion conforms to all requirements of these regulations.
- 3) Four (4) paper copies and one (1) PDF copy of the final plat, along with supplementary materials required for approval, shall be prepared and submitted to the Department of Development Services along with the plat application fee. The City Council shall act on the plat within thirty (30) days of being declared complete for consideration by the Administrator.
- 4) Supplementary materials referred to above means complete construction plans for streets, drainage, water and sewer improvements. Four (4) paper copies and one (1) PDF copy of the supplementary materials shall be submitted.
- 5) Items Required on the Plat. The final plat shall be drawn to scale no smaller than one hundred feet (100') to one inch (1") and show the following:
 - a) Primary control points, approved by the Administrator, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings, new block numbers, and similar data on the plat shall be referred. All subdivisions shall reference two corners to state plane coordinates.
 - b) Tract boundary lines to locate the exact area proposed for subdivision, right-of-way lines of streets, easements, and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings, or deflection angles, and radii, arcs, and central angles of all curves.
 - c) Dimensions of all lots and building tracts.
 - d) Name, right-of-way width, and type of each street or other right-of-way.
 - e) Location, dimensions including metes and bounds where practical, and purpose of any easement.
 - f) Number to identify each lot or site.
 - g) Purpose for which sites, other than residential lots, are dedicated or reserved.
 - h) Minimum building set back lines. If omitted, set back lines will be determined by the most recent version of the Zoning Ordinance.
 - i) Location and description of monuments.
 - j) Reference to recorded subdivision plats of adjoining platted land by record name. Adjacent unplatted land shall show property lines and owners of record.
 - k) Scale, north arrow, and date.
 - l) Vicinity map.
 - m) Owner's Certificate and Dedication Statement.
 - n) Protective covenants, if any.
 - o) Surveyor's Certificate, to be placed on the plat:
KNOW ALL MEN BY THESE PRESENTS:
That I, _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision Regulations of the City of Athens, Texas.
 - p) Planning Commission Certificate of Approval, to be placed on the plat:
Recommended for approval on this ____ day of _____, 20__, by the Planning and Zoning Commission of the City of Athens, Texas.

Chairperson

Secretary

- q) City Council Certificate of Approval, to be placed on the plat:
Approved on this ____ day of _____, 20__, by the City Council of the City of Athens,
Texas.

Mayor

City Secretary

- 6) Application Review:
- a) City staff shall review the final plat and other material submitted for conformity thereof to these regulations and shall make recommendations for negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made. These recommendations shall be made in writing.
 - b) Utility companies shall review all final plats and provide appropriate input to ensure that utility improvements will not hinder development. This input may require the submission of utility construction plans.
- 7) Planning Commission Consideration. Following the review of the final plat and other material submitted for conformity thereof to these regulations, and negotiations with the subdivider on changes deemed advisable, the Planning Commission shall act thereon as submitted, or modified, and if approved, shall express its recommendation for approval to the City Council and state in writing the conditions of such approval, if any. If not recommended for approval, the Planning Commission shall express its disapproval and reasons, therefore, in writing. Written conditional approvals and denials shall state the basis for the decision with references to the applicable state law or ordinance.
- 8) City Council Approval. Following a recommendation of approval by the Planning Commission, the City Council shall act on shall have final approval of the plat as submitted or modified. The following criteria shall be used by the City Council to determine whether the application for a final plat shall be approved, approved with conditions, or denied. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance.
- a) The final plat conforms to all criteria for approval of a preliminary plat;
 - b) The construction plans conform to design requirements and construction standards as set forth in this Ordinance and the Infrastructure Design Guidelines;
 - c) A Developer's Agreement or surety for installation of public improvements has been prepared and executed by the property owner in conformity with Article VI;
 - d) The final layout of the subdivision or development meets all standards for adequacy of public facilities contained in this Ordinance.
 - e) The final plat meets all applicable county standards to be applied under an interlocal agreement between the city and the county under Texas Local Government Code 242, where the proposed development is located in whole or part of the extraterritorial jurisdiction of the city.
- 9) Recording:
- a) All plats submitted for recordation shall be sealed by a registered professional land surveyor in the state of Texas.
 - b) All plats to be recorded shall conform to all conditions of approval and shall be submitted to the Administrator.

- c) Plats shall be recorded in the Plat Records of Henderson County by the city and a copy delivered to the applicant. They shall include:
 - i. All stipulations of approval;
 - ii. The required public improvements have been completed and accepted by the city or appropriate surety has been provided in accordance with INSERT SECTION;
 - iii. All necessary fiscal agreements approved by the city and fully executed by all parties; and
 - iv. Payment of all applicable fees, assessments, and both current and delinquent taxes.
- 10) Effect of Approval. The approval of a final plat supersedes any prior approved preliminary plat for the same land; authorizes the applicant to install any improvements in public rights-of-way in conformance with approved construction plans and under and Developer's Agreement, if applicable; and authorizes the applicant to seek Construction Release and/or issuance of a building permit.
- 11) Revisions Following Recordation. Revisions may only be processed and approved as a replat or amending plat, as applicable.

Sec. 17-14. – Procedure for approval of a minor plat.

- 1) The purpose of a minor plat is to simplify divisions of land under certain circumstances outlined in State law. An application for a minor plat may only be filed when all the following circumstances apply:
 - a) The proposed division results in four (4) or fewer lots;
 - b) All lots in the proposed subdivision front onto an existing public street and the construction or extension of a street or alley is not required to meet the standards of this Ordinance;
 - c) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the development; and
 - d) If minor revisions are required for a previously platted and recorded lot, a minor plat may be utilized in lieu of a replat if allowed by State law.
- 2) Four (4) paper copies and one (1) PDF copy of the minor plat shall be prepared and submitted to the Department of Development Services along with the plat application fee. The City Council shall act on the plat within thirty (30) days of being declared complete for consideration by the Administrator.
- 3) Items Required on the Plat. The items required shall be the same as for the final plat.
- 4) Application Review. The review process shall be the same as for a final plat.
- 5) Planning Commission consideration shall be the same as for a final plat.
- 6) City Council Approval. Following a recommendation of approval by the Planning Commission, the City Council shall act on shall have final approval of the plat as submitted or modified. The following criteria shall be used by the City Council to determine whether the application for a minor plat shall be approved, approved with conditions, or denied. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance.
 - a) All lots to be created by the plat are already adequately served by a public street and by all required utilities and services and by alleys, if applicable.
 - b) The ownership, maintenance, and allowed uses of all designated easements have been stated on the minor plat.
 - c) Except for right-of-way widening and easements, the plat does not require the extension of any municipal facilities to serve any lot within the development including any dedication statements and signatures for right-of-way dedications.
- 7) Recording:

- a) All plats submitted for recordation shall be sealed by a registered professional land surveyor in the state of Texas.
 - b) All plats to be recorded shall conform to all conditions of approval and shall be submitted to the Administrator.
 - c) Plats shall be recorded in the Plat Records of Henderson County by the city and a copy delivered to the applicant. They shall include:
 - i. All stipulations of approval;
 - ii. Payment of all applicable fees, assessments, and both current and delinquent taxes.
- 8) Revisions following recordation. Revisions may only be processed and approved as a replat or amending plat, as applicable.

Sec. 17-15. – Procedure for approval of a replat.

- 1) A replat of a subdivision or part thereof may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
 - a) Is signed and acknowledged by the owners of the property being replatted;
 - b) Is approved after a public hearing; and
 - c) Does not attempt to amend or remove any covenants or restrictions.
- 2) Four (4) paper copies and one (1) PDF copy of the replat plat shall be prepared and submitted to the Department of Development Services along with the plat application fee. The City Council shall act on the plat within thirty (30) days of being declared complete for consideration by the Administrator.
- 3) Items Required on the Plat. The items required shall be the same as for the final plat. In addition, the following minimum certification shall be included: “This plat does not alter or remove existing deed restrictions or covenants, if any, on this property.”
- 4) Application Review. The review process shall be the same as for a final plat.
- 5) Public Notice. Notice shall be provided for replats per Texas Local Government Code 212.014 and 212.015, as amended.
 - a) Replats requiring public notice:
 - i. Any part of the area to be replatted was limited by an interim or permanent zoning classification to not more than two residential units per lot at any time during the preceding five years.
 - ii. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - iii. Exception – Compliance with this subsection is not required for approval of a replat if the area to be replatted was designated or reserved for a use other than single-family or duplex by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.
 - b) Notice of a public hearing shall be given before the 15th day before the date of the hearing by:
 - i. Publication in the official newspaper of the city
 - ii. By written notice to owners of lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted as indicated on the most recently certified tax roll.
 - c) If the replat requires a variance and is protested in accordance with State law, the replat must receive the affirmative vote of at least three-fourths of the Council members present in order to be approved. For a legal protest, written instruments signed by the owners of at least twenty (20) percent of the area of the lots or land immediately adjoining the area being replatted and extending two hundred (200) feet from that area, but within the original subdivision, must be filed with the City Council prior to the close of the public hearing.
- 6) Planning Commission consideration shall be the same as for a final plat.

- 7) City Council Approval. Following a recommendation of approval by the Planning Commission, the City Council shall act on shall have final approval of the plat as submitted or modified. The following criteria shall be used by the City Council to determine whether the application for a minor plat shall be approved, approved with conditions, or denied. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance.
 - a) The same criteria as required for a final plat
 - b) The lots shall conform in width, depth, and area to the predominant pattern established by the existing lots located on the same block, having due regard to the character of the area.
- 8) Recording shall be the same as for a minor plat.
- 9) Revisions following recordation. Revisions may only be processed and approved as a replat or amending plat, as applicable.

Sec. 17-16. – Procedure for approval of an amending plat.

- 1) An amending plat shall control over the preceding plat without vacation of that plat, if the amending plat is signed by all applicants and is solely for one or more of the following purposes below:
 - a) To correct an error in a course or distance shown on the preceding plat;
 - b) To add a course or distance that was omitted on the preceding plat;
 - c) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
 - d) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
 - e) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - f) To correct an error in courses and distances of lot lines between two adjacent lots if:
 - i. Both lot owners join in the application for amending the plat;
 - ii. Neither lot is abolished;
 - iii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iv. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - g) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - h) To relocate one or more lot lines between one or more adjacent lots if:
 - i. The owners of all those lots join in the application for amending the plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions; and
 - iii. The amendment does not increase the number of lots;
 - i) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - i. The changes do not affect applicable zoning and other regulations of the municipality;
 - ii. The changes do not attempt to amend or remove any covenants or restrictions; and
 - iii. The area covered by the changes is located in an area that the City Council had approved, after a public hearing, as a residential improvement area; or
 - j) To replat one or more lots fronting on an existing street if:
 - i. The owners of all those lots join in on the application for amending the plat;
 - ii. The amendment does not attempt to remove recorded covenants or restrictions;
 - iii. The amendment does not increase the number of lots; and

- iv. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- 2) Four (4) paper copies and one (1) PDF copy of the amending plat shall be prepared and submitted to the Department of Development Services along with the plat application fee. The City Council shall act on the plat within thirty (30) days of being declared complete for consideration by the Administrator.
- 3) Items Required on the Plat. The items required shall be the same as for the final plat.
- 4) Application Review. The review process shall be the same as for a final plat.
- 5) Planning Commission consideration shall be the same as for a final plat.
- 6) City Council Approval. Following a recommendation of approval by the Planning Commission, the City Council shall act on shall have final approval of the plat as submitted or modified. The same criteria as required for a final plat shall be used by the City Council to determine whether the application for a minor plat shall be approved, approved with conditions, or denied. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance. Notice, a hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.
- 7) Recording shall be the same as for a minor plat.
- 8) Revisions following recordation. Revisions may only be processed and approved as a replat or amending plat, as applicable.

Sec. 17-17. – Procedure for approval of a plat vacation.

- 1) The purpose of a plat vacation is to provide an expeditious means of vacating a recorded plat in its entirety, consistent with State law.
- 2) The City Council shall act on the plat vacation request within thirty (30) days of being declared complete for consideration by the Administrator.
- 3) Application Review. The review process shall be the same as for the original plat.
- 4) Planning Commission consideration shall be the same as for the original plat.
- 5) City Council Approval. Following a recommendation of approval by the Planning Commission, the City Council shall act on shall have final approval of the plat vacation as submitted or modified. Conditional approvals and denials shall be made in writing and shall state the basis for the decision with references to the applicable state law or ordinance. The approval criteria shall be in accordance with the criteria for the original plat and in accordance with Section 212.013 of the Texas Local Government Code, as amended.
- 6) Recording:
 - a) The vacating instrument is recorded in the manner prescribed for the original plat.
 - b) The county clerk shall write legibly on the vacated plat the word “Vacated” and shall enter on the plat a reference to the volume and page at which the vacating instrument is recorded.
 - c) Replacement right-of-way or easement may be required to be dedicated by separate instrument as condition of approval.

ARTICLE III – ADEQUATE PUBLIC FACILITIES AND DEDICATION REQUIRED

Sec. 17-18. – Provision of adequate public facilities.

Each subdivision shall provide adequate public facilities. Adequate public facilities shall include adequate water, sanitary sewer, drainage, and transportation facilities necessary to serve the proposed development, whether the facilities are to be located within the property being platted or offsite or not.

Sec. 17-19. – Criteria of adequate public facilities.

Public facilities are considered adequate if they meet the minimum level of service established in the appropriate sections of this Ordinance and the following standards:

- 1) Street Access: All platted lots shall have safe and reliable street access for daily use and emergency purposes. All platted lots shall have direct access to a paved public street, private street, or an approved access easement.
- 2) Water: All platted lots shall be connected to a public water system that provides water for health and emergency purposes. The water system shall be consistent with the City of Athens water system plan and all adopted city codes and ordinances and the Infrastructure Design Standards.
- 3) Wastewater/Sanitary Sewer: All platted lots shall be connected to a public sanitary sewer collection and treatment system where available. On-site sanitary sewer treatment systems shall only be permitted if no public sanitary sewer is available within 300 feet of the property and shall meet the city's adopted standards for on-site sanitary sewer. The sanitary sewer system shall be consistent with the Master Plan and Infrastructure Design Standards, as amended.
- 4) Drainage and Stormwater Management: Drainage and stormwater facilities are adequate when
 - a. Stormwater runoff attributable to new development or redevelopment complies with the minimum standards of this Ordinance and the Infrastructure Design Standards.
 - b. To the maximum extent practicable, the predevelopment characteristics of any natural creek that ultimately receives stormwater runoff from the development shall be maintained.
- 5) Electricity: All platted lots shall have access to a public utility that provides electricity for retail consumption.
- 6) Telecommunications: All platted lots shall have access to a public utility that provides telecommunications for retail consumption.

Sec. 17-20. – Owners dedication.

The following dedication statement shall be used in all instances:

Now therefore, know all men by these presents; that (owner's name) acting herein by and through its duly authorized officers, does hereby adopt this plat designating the herein above described property as (subdivision name), an addition to the City of Athens, Texas and does hereby dedicate, in fee simple, to the public use forever, the streets, alleys, and public use areas shown hereon, and does hereby dedicate the easements shown on the plat for the purposes indicated to the public use forever, said dedications being free and clear of all liens and encumbrances except as shown herein. No buildings, fences, trees, shrubs, or other improvements shall be constructed or placed upon, over, or across the easements on said plat. Utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to a particular utility or utilities, said use by public utilities being subordinate to the public's and City of Athens use thereof. The City of Athens and any public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths which in any way endanger or interfere with the construction, maintenance, or efficiency of its respective system on any of these easements and the City of Athens on any public utility shall at all times have the right of ingress and egress to and from and upon any of said easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of its respective system without the necessity at any time of procuring the permission of anyone. (Owner's name) does hereby bind itself, its successors and assigns to forever warrant and defend all and singular the above described streets, alleys, easements, and rights unto the public against every person whomsoever lawfully claiming or to claim the same or any part thereof. This plat approved subject to all platting ordinances,

rules, regulations, and resolutions of the City of Athens. Witness my hand this ____ day of ____, 20 ____.

Signature of Owner

Name: _____

Title: _____

Company: _____

Signature of Lienholder (if applicable)

Name: _____

Title: _____

Company: _____

If there is no lien holder, add the following statement:

To the best of my knowledge, there are no liens against this property.

Signature of Owner

Sec. 17-21. – Dedication required.

- 1) Property necessary for the orderly development of streets, roadways, thoroughfares, utilities, stormwater facilities, or other public purposes shall be dedicated to the City as required by this Ordinance and in accordance with the Comprehensive Plan, the Master Thoroughfare Plan, and other adopted plans. Dedication of and acceptance by the city of the property is a condition of plat approval.
- 2) The dedication requirements for a specific plat shall be roughly proportional to the projected impact of the proposed development and shall be determined as set forth in Texas Local Government Code 212.904 of the TXLGC
- 3) Property Owners' Association Allowed: When a subdivision contains common areas, drainage ways, screening walls or other facilities not located within the public right-of-way nor subject to city maintenance, or if landscaping, sidewalks, or other amenities are provided within the public right-of-way for which a license agreement is required by the city, a property owners' agreement, as evidenced by the covenants establishing the association, shall be placed on the plat. Such homeowners' agreement (the covenants, conditions and restrictions) shall be approved as part of the preliminary plat process and shall be filed of record prior to recording of the final plat.
 - a. The City Attorney will review the association documents as to form. The following six (6) statements shall appear on the face of the plat and in a single article in the association's covenants, conditions and restrictions:
 - i. The owner of fee simple title to every individual lot of land within the subdivision must be a member of the homeowners association.
 - ii. The homeowners association must have the authority to collect membership fees.
 - iii. The homeowners association must be responsible for the maintenance of all common areas and screening walls.
 - iv. The homeowners association must grant the city the right of access to common areas to abate any nuisances thereon and attach a lien for the prorated cost of abatement upon each individual lot.

- v. The homeowners association shall indemnify and hold the city harmless from any and all costs, expenses, suits, demands, liabilities, damages, or otherwise including attorney's fees and costs of suit, in connection with the city's maintenance of common areas.
 - vi. The homeowners association shall enter into a license agreement with the City of Athens where additional right-of-way has been dedicated for the purpose of providing landscaping, additional areas for sidewalks, walls, or other amenities, and shall be responsible for the installation and maintenance of all landscape areas that are in the public right-of-way.
- b. If a property owners' association fails to collect reserve funds to maintain property such as private streets, access easements, privately maintained drainage features, or pools, the city may assess property owners within the subdivision served by the amenity or facility the costs associated with addressing matters of public safety.

ARTICLE IV – DESIGN STANDARDS

Sec. 17-22. – Incorporation of infrastructure design guidelines.

The city's adopted infrastructure design criteria and construction standards for public improvements are hereby incorporated and collectively referenced as the Infrastructure Design Guidelines. The Infrastructure Design Guidelines shall be maintained in the Public Works office and are available upon request.

Sec. 17-23. – Street and right-of-way requirements.

1. Basic Policy. The following general requirements apply to all plats.
 - a. In platting a new development, the property owner shall provide additional right-of-way needed for existing or future streets as required by the Infrastructure Design Standards, the adopted Master Thoroughfare Plan, and this Ordinance. All street improvement requirements and right-of-way dedication shall be in accordance with the provisions of Section 212.904 of the Texas Local Government Code, as amended.
 - b. An adequate off-site street and thoroughfare system shall be designed and constructed in order to:
 - i. Provide for streets of suitable location, width, or other improvements to accommodate existing traffic, traffic anticipated from the development, and traffic anticipated from other developments impacting the same roadways.
 - ii. Afford satisfactory access to adjoining properties.
 - iii. Accommodate police, firefighting, sanitation, and street maintenance equipment.
 - c. Improvement of Existing Substandard Streets.
 - i. If the proposed development is located along only one side of a substandard street, and if the city makes a determination that it is not feasible to improve the full width of said substandard street at that time the city may require the developer to pay into escrow, in accordance with this Ordinance, funds for the future improvement of the street as a condition of final plat approval for the development.
 - ii. The developer may request a waiver or may file a proportionality appeal if the requirements for improving an existing substandard street would result in unnecessary hardship or would be disproportional to the impacts generated by the development on the city's street system.
 - d. The proposed streets of the development shall effectively relate to the present and future street system and to the development of the surrounding area in order to assure continuity

- e. After the information is reviewed, the city may:
 - i. Disapprove the plat.
 - ii. Require that development of the property be phased to coordinate the timing of building permits with the provision of adequate capacity.
 - iii. Require the developer, in lieu of denial or phasing of the plat, to construct off-site and/or on-site improvements to city standards or as otherwise permitted by the Administrator to provide adequate capacity for the roadway network. Construction may be required to use standards in excess of any adopted Master Thoroughfare Plan or the Infrastructure Design Standards if warranted based on the available capacity and proportional impact of the proposed development.
3. Traffic Study Requirements
 - a. The traffic study shall be prepared in accordance with the criteria established in the Infrastructure Design Standards.
 - b. Prior to forwarding any plat to the Planning Commission and City Council, the traffic study shall be accepted by the city. The acceptance of the traffic study will be based on the completeness of the traffic study, the thoroughness of the impact evaluation, and the consistency of the study with the proposed access and development plan.
 4. Requirement for Access to the Street Network
 - a. Acquisition of Access Required: The developer shall acquire right-of-way and/or necessary easements and construct any offsite roadways and/or access ways necessary to connect the development with an adequate offsite, existing city roadway network.
 - b. Residential Access Limited
 - i. Arterial Streets: No single-family, townhouse, or duplex residential development shall have direct access to an arterial street unless no other means of access is available. In cases where access is permitted to an arterial street, a private access easement adjacent to the thoroughfare is required. Any lot that has direct access to an arterial street is required to provide head-out egress.
 - ii. Collectors: Single-family, duplex, and townhouse residential lots may have direct driveway access to collectors if the following development standards are complied with:
 1. An additional setback of 10 feet shall be required along the collector street frontage. The setback shall be measured from the ultimate right of way of the collector street as identified in the adopted Master Thoroughfare Plan.
 2. Driveway separation may be allowed only with a minimum of 240 feet separation with shared driveways.
 - c. Private Access Easements: To the maximum extent practicable, private access easements shall be required between and/or across any nonresidential lots fronting on arterial and collector streets in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots. The location and dimensions of the easement shall be in accordance with the Infrastructure Design Standards. A note shall be provided on the plat indicating the lots served by the private access easement. The minimum width of a private access easement shall be twenty (20) feet. The easement shall be increased to twenty-four (24) feet when it functions as a required fire lane. For 24-foot and 22-foot local standards, private access easements are required to provide rear access to residential lots. For this use, the private access easement width may be reduced by the Administrator if not needed for fire access.
 - d. Maintenance of Private Access Easement: Maintenance of any private access easement is the responsibility of the property owner or property owner's association, as applicable. When an easement is created by plat, a maintenance note as approved by the Administrator shall be added to the plat acknowledging maintenance responsibility. When the easement

is created by separate instrument, the maintenance responsibility shall be acknowledged with the separate instrument.

- e. Adequate Access: Each single-family residential subdivision shall have at least two constructed points of public ingress and egress, except:
 - i. When thirty (30) or fewer residential units are constructed with one point of street ingress and egress.
 - ii. The Administrator may approve up to forty (40) units with one point of access when requested. In evaluating a request, the Administrator shall consider factors including the timing of construction of other public improvements that provide a second point of access, public safety, and convenience, especially if undeveloped property is adjoining the subdivision and future stub streets are provided.
 - iii. The City Commission may grant a waiver to these regulations for more than 40 units with one point of access only when unique topographic or infill circumstances exist.
 - f. Stub Streets Required: Street stubs for future connections shall be required to any adjoining undeveloped property at a minimum spacing of 1,000 feet. A street stub for a future connection may provide the justification for the waiver of the Adequate Access requirement above.
5. Street Layout Requirements
- a. Intersections
 - i. Intersection Offsets
 - 1. No street intersecting an arterial or collector street shall vary from a 90-degree angle of intersection by more than 10 degrees.
 - 2. The number of collector or local street offsets shall be minimized. However, when approved by the Administrator because no other reasonable alternative exists, a minimum centerline offset distance of 125 feet shall be maintained.
 - 3. There shall be a minimum of 600 feet between intersections of arterials or collector type streets.
 - ii. Arterial streets shall be intersected only by collector streets or other arterial streets, unless the only means of ingress and egress to a subdivision is from the arterial street. In this event, the local street intersection may be required to be configured to accommodate stacking and turning traffic with a flared intersection per the Infrastructure Design Standards. All costs associated with the construction of this flare configuration shall be borne by the developer.
 - iii. Visibility triangles shall be provided at the intersection of all public streets. In addition, visibility easements may be required where sight distance may be limited due to topography, roadway curvature, vegetation, or other sight hindrance. The easement shall be dedicated by plat.
 - b. Residential Block Dimensions: The following standards shall be followed in the design of residential blocks.
 - i. Block lengths and cul-de-sacs shall be appropriate to the density and type of development as follows:
 - 1. Generally, the maximum length of any block in a residential zoning district shall be 600 feet measured from property corner to property corner.
 - 2. If utilizing rural standards, the maximum block length shall be 1000 to 1200 feet with a maximum of 12 lots.
 - ii. Alternative Block Lengths. The Administrator may approve alternative block lengths under the following conditions:
 - 1. Proximity to a railway, expressway, waterway.
 - 2. Topographic features.

3. An infill development with no alternate access.
 4. When considering a request for alternative block lengths, the Administrator shall consider the following:
 - a. Alternative designs which would reduce block length.
 - b. The effect of long blocks on access, congestion, and delivery of municipal services.
 - c. Means of mitigation, including but not limited to mid-block turnarounds, limitation on the number of lots to be created and served, temporary points of access, and additional fire protection measures.
- c. Curvilinear Street Design Requirements
- i. Roadway layout may include curvilinear design. If curvilinear street design is utilized, then local and collector streets shall be designed with a maximum of 50 percent of the lots within the subdivision to have curved frontage.
 - ii. The roadways shall also conform to the following:
 1. Fit the road to natural topography.
 2. Avoid monotony of lot appearance.
 3. Reduce speeds through neighborhoods.
 4. Discourage through traffic intrusions by eliminating straight views from one block to the next.
 - iii. Local and collector streets that connect one major collector or arterial to another major collector or arterial directly are discouraged.
- d. Cul-de-Sacs: Dead end streets are permitted only where a future extension or connection is anticipated or planned into adjacent property. If the dead end is greater than 150 feet measured from the property line, a cul-de-sac will be required. The developer shall be responsible for acquiring the right-of-way or easement and constructing the turnaround. The turnaround will be considered temporary until the street is extended or a permanent cul-de-sac is constructed. The temporary turnaround may be constructed without curb and gutter but shall meet all other design criteria. The turnaround shall be constructed off-site, unless the developer is unable to obtain off-site right-of-way. The Administrator may approve the construction of the turnaround within the limits of the development based on phasing and timing of future connectivity.
- i. A cul-de-sac shall have a 50-foot right-of-way radius at the closed end. The radius of the paved area of the turnaround shall be a minimum of 40 feet.
 - ii. Maximum length of a dead-end street permitted shall be 600 feet.
 - iii. Provisions shall be made for drainage at the ends of dead-end streets.
 - iv. When an existing dead-end street with temporary turnaround, whether on- or off-site, is extended, the developer extending the street shall be responsible for removing the turnaround facilities, constructing the extension or cul-de-sac to the standards in these regulations, and restoring the affected area.
 - v. If the developer chooses not to extend an existing dead end-street, then that developer shall provide right-of-way and construct a permanent turnaround or cul-de-sac.
6. Rights-of-Way
- a. Rights-of-way for major arterials, arterials, and collectors are required and shall be established below unless it meets the standards as established in the city's adopted Master Thoroughfare Plan.
 - i. Major arterials shall have a right-of-way width of 110 feet.
 - ii. Minor arterials shall have a right-of-way width of 80 – 100 feet.
 - iii. Major collectors shall have a right-of-way width of 70 feet.
 - iv. Minor collectors shall have a right-of-way width of 60 feet.

- b. Mid-block and Intersection Requirements: Mid-block and intersection rights-of-way and geometric design for streets are required as shown in the Master Thoroughfare Plan and the Infrastructure Design Standards. Based on site conditions and the proposed development, additional right-of-way may be required to be dedicated to facilitate access ramp and/or signal construction as follows:
 - i. A 10-foot by 10-foot clip for local/local street intersections.
 - ii. An 80-foot radius for arterial/arterial intersections and arterial/departure side of major collector street intersections. See Infrastructure Design Standards for layout.
 - iii. A 15-foot by 15-foot clip for all other intersections.
 - c. Local Streets: For local streets, the right-of-way width shall be 50 feet with a pavement width of 31 feet including curb and gutter. On street parallel parking is allowed on both sides. Right-of-way for all local streets shall flare to 60 feet at intersections with any arterial street.
- 7. Specification for Street Construction: All streets shall be designed and installed in accordance with the Infrastructure Design Guidelines.
- 8. Sidewalks
 - a. Sidewalks Required: The developer shall install sidewalks on all public streets within and abutting the development in accordance with this Ordinance. Sidewalks are not required for the local rural streets where the lots are one acre or larger in area. A waiver of sidewalks may be granted by the Administrator if it is determined that construction is not feasible at time of development for engineering reasons or inappropriate due to the nature of the project.
 - b. Sidewalks shall be built in accordance with the Infrastructure Design Standards, any adopted Trail Plan, and Texas Accessibility Standards.
 - c. The developer may, at his own option, choose to provide additional private access easements for sidewalks, walkways, or bicycle facilities. Construction and maintenance of these private access easements will be the responsibility of the developer and/or subsequent owners.
- 9. Driveway Approaches: Residential and commercial driveways shall be designed in accordance with Chapter 16 of the Code of Ordinances and the Infrastructure Design Standards.
- 10. Development Requirements
 - a. State Roadways: The developer may be required to construct curbs, gutters, and sidewalks to TxDOT's standards on developments abutting roadways designated as state highways, or on right-of-way or land owned by the State.
 - b. Coordination with Planned Street Projects: Where a development will abut an existing street for which construction plans have been prepared for future improvements, the plans for the development shall be coordinated with the street construction plans. If the developer requests an alteration to the construction plans, and the city agrees to the alteration, the developer shall pay to revise the plans as necessary and escrow any increased construction costs. The escrow will not be refundable.
 - c. Street Appurtenances with Construction: All public street construction shall include streetlights, street signs, signals, and pavement markings as required by the Infrastructure Design Standards. The developer will be responsible for all costs associated with the design and construction or installation of these street appurtenances. Streetlights shall also be required on all perimeter public streets along the frontage of the development. Conduit for fiber optic cables may be required at signalized intersections and along roadways identified in the city's network fiber plan. All street appurtenances shall be designed and constructed in accordance with the Infrastructure Design Standards.
 - d. Payment Requirements
 - i. Upon the developer's request to defer construction of any required public improvements, at the city's sole option, a payment in lieu of construction may be

collected for required improvements. The Administrator may agree to defer construction of required improvements and accept payment when construction of the required improvements is not feasible at the time of development. The payment amount shall be estimated based on the total estimated cost of design, utility relocation, and construction of the improvements unless otherwise specified in this section. Payment shall be made to an escrow account to be utilized solely for the construction of the required public improvements.

- ii. Easements Required: The developer shall provide the right-of way and/or easements even if construction is determined not to be feasible and payment is accepted at the time of the subdivision.

11. Development Agreements

- a. Standard development agreements executed by the developer and the city are required for all public improvements. The agreements shall include two-year maintenance bonds, performance bond, payment bond, insurance, and other requirements and fees as detailed in the Infrastructure Design Standards.
- b. Ownership and Maintenance: All public facilities constructed within dedicated public rights-of-way or public easements shall be and shall remain the property of the city and, after expiration of the maintenance bonds, shall be maintained by the city.

12. Private Streets

- a. Private streets may only be allowed in approved Planned Development Districts.
- b. Design and Construction Requirements: Private street widths, cross-sections, and design criteria shall comply with city standards and shall meet the minimum construction standards for public streets, including its appurtenances such as streetlights, street signs, and pavement markings. If the development will be gated, it shall comply with the gated entry guidelines in the Infrastructure Design Standards.
- c. Streets shown on the Master Thoroughfare Plan shall not be used, maintained, or constructed as private streets. In addition, the city may deny the creation of any other private street if, in the city's judgment, the private street would have any of the following effects:
 - i. Negatively affect traffic circulation on public streets.
 - ii. Impair access to property either on-site or off-site to the subdivision.
 - iii. Impair access to or from public facilities including schools, parks and libraries.
 - iv. Delay the response time of emergency vehicles.
- d. Private streets shall be constructed within a separate lot owned by the property owners' association. This lot shall conform to the city's standards for public streets and rights-of-way. An easement covering the street lot shall be granted to the city providing unrestricted use and maintenance of the property for public utilities. This right shall extend to all utility providers operating within the city. The easement shall also provide the city with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to, fire and police protection, inspection, and ordinance enforcement. The easement shall permit the city to remove any vehicle or obstacle within the street lot that impairs emergency access.
- e. Cost of Private Streets: The city shall not pay for any portion of the cost of constructing or maintaining a private street and its appurtenances.
- f. Inspections: Inspections of private streets shall be performed by the city at the developer's cost or by a third party in accordance with requirements outlined in the Infrastructure Design Standards.
- g. Maintenance: Developments with private streets shall have a mandatory property owners' association that includes all property served by private streets to ensure maintenance of the private street.

- h. Waiver of Services: The subdivision's recorded plat, property deeds, and property owner association documents shall note that certain city services may not be provided on private streets. The services that may not be provided include street maintenance, routine police patrols, enforcement of traffic and parking ordinances, and preparation of accident reports. Depending on the characteristics of the proposed development, other services may not be provided.
13. Street Names: The developer shall name streets in conformance with this section and the Infrastructure Design Standards. The city shall have final approval of all street names.
- a. Preliminary Plat: Proposed Street names shall be submitted for review as a part of the preliminary plat application and shall become fixed at the time of approval of the preliminary plat.
 - b. Final Plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the city (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for review and approval by the city, along with the final plat application.
 - c. Streets Named for Corporations/Businesses Prohibited: The names of corporations or businesses shall not be used as street names, unless approved by the City Council.
 - d. List of Street Names Maintained: The city will maintain a list of existing street names that are essentially "reserved" names that have been previously been approved on a preliminary plat and will update the list as new streets are platted.
 - e. Duplication and Similarities Prohibited: New street names shall not duplicate existing street names either literally or in a subtle manner (for example, Smith Street versus Smythe Street; Oak Drive versus Oak Place versus Oak Court versus Oak Circle; Lantern Way versus Land Tern Way; Cascade Drive versus Cascading Drive); shall not be so similar as to cause confusion between names (for example, Lakeside Drive versus Lake Side Drive versus Lake Siding Drive).
 - f. Extension of Existing Streets: Any new street that extends an existing street shall bear the name of the existing street unless otherwise approved by the City Council.
14. Abandonment of Easements or Rights-of-Way: The application to request the abandonment of a utility easement or right-of-way shall be accompanied by a fee to cover the administrative expenses of such request. The Administrator shall establish the necessary rules, regulations, and guidelines for such closures. The following items shall be included in the application:
- a. A completed application form signed by all adjoining property owners;
 - b. For platted property, a copy of the plat showing the applicable easement or right-of-way;
 - c. For unplatted property, a signed, sealed and dated metes and bounds description and diagram of the property showing the location of the abandonment.

Sec. 17-24. – Lots and blocks.

- 1. Lots
 - a. The lot size, width, depth, shape, and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
 - b. Lot dimensions shall conform to the requirements of the Zoning Ordinance.
 - i. Platted or replatted lots must comply with the minimum lot size regulations of the zoning district in which the lot is located. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

- c. Double frontage, and reserve frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen reservation of at least ten feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
 - d. All lots shall front on a public or private street or private access easement and shall have a minimum lot width as indicated in the Zoning Ordinance. Key or flag shaped lots shall be prohibited.
 - e. Building setback lines shall be shown on all lots intended for residential use and in some cases may be required on lots intended for commercial use and shall provide at least the minimum setback required by the Zoning Ordinance.
 - f. Where the area is divided into larger lots than for other normal urban building sites and, in the opinion of the City Council, any or all of the tracts are susceptible of being resubdivided, the original subdivision shall be such that the alignment of future street dedication may conform to the general layout in the surrounding area.
2. Blocks:
- a. The lengths, widths and shapes of blocks shall be determined with due regard to:
 - i. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
 - ii. Zoning requirements as to lot sizes and dimensions;
 - iii. Needs for convenient access, circulation, control and safety of street traffic;
 - iv. Limitations and opportunities of topography;
 - b. Block numbers shall be assigned by the city.

Sec. 17-25. – Easements.

1. Width of Easements
- a. Utility Easements: The minimum width for utility easements shall be in accordance with the standards outlined in the Infrastructure Design Standards and shall be adequate for the installation and maintenance of utilities that are likely to be located in the easement.
 - b. Drainage Easements: The minimum width for city drainage easements shall be as required by the Infrastructure Design Standards.
 - c. Storm Drainage or Floodway Easements: Where a subdivision is traversed by a watercourse, drainage way or channel, a storm drainage easement or right-of-way shall be provided that conforms substantially with such course and of such additional width as may be designated by the Administrator, subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers, and/or the city. Parallel Streets or parkways are encouraged adjacent to creek or drainage ways to provide maintenance access and/or public access and visibility into public open space or recreation areas. In this regard it is required that at least 50% of the edge along creeks/drainage ways be designated for public access – either trail or street frontage. Utilities may be permitted within a drainage or floodway easement only if approved by the Administrator and any other applicable entity requiring the drainage or floodway easement.
 - d. Other Easements: The width of easements for other utility providers, such as for gas, electric, telephone or cable television, shall be as required by that particular entity. It shall be the Applicant/Developer's responsibility to provide appropriate easement widths required by other utility companies.
2. Location of Easements: Easements shall be located to accommodate the optimal design of the various utility and drainage systems that will serve the subdivision and shall be provided in

locations to accommodate any public purpose deemed necessary to protect the public health safety and welfare. In residential subdivisions, where alleys are not provided, a minimum 10-foot wide utility easement shall be provided along the front of all lots, parallel to and flush with the street right-of-way line for the potential placement of utility facilities.

3. Computation of Lot and Buildable Area: The area of a lot shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of required easements, buffer zones and setbacks for each lot. The minimum buildable area shall be an area one half (1/2) of the required minimum lot size.
4. On-Site Easements Shown on Plat: For new development, all necessary on-site easements shall be established on the plat and not by separate instrument, and they shall be labeled for a purpose, such as for franchised public utilities. Other examples include, but are not limited to, the following: a drainage easement, which is dedicated to the city for a drainage structure; an access easement, which is dedicated to the public for unrestricted access purposes; a fire lane easement, which is dedicated to the city and its fire suppression and emergency medical service providers for access purposes; and an electrical, gas, or telephone easement which is dedicated to the specific utility provider that requires the easement.
5. Visibility Triangles: Visibility triangles meeting the standards of the Zoning Ordinance shall be designated as visibility easements on the plat.

Sec. 17-26. – Water and Wastewater Utilities.

1. Connections for Water: All new subdivisions inside the city limits shall be connected with the city's water system. The water system shall be capable of providing water for health and emergency purposes, including fire protection. The design and construction of the city water system shall comply with the following standards:
 - a. Applicable regulations of the TCEQ.
 - b. Standards in the Infrastructure Design Standards.
 - c. Fire protection and suppression standards in accordance with the city's policies and ordinances including Fire Code adopted by the city. Additional development will not be allowed without water pressure meeting these standards.
2. Connections for Wastewater:
 - a. All new subdivisions inside the city limits shall be served by a wastewater collection and treatment system authorized and permitted by the TCEQ, except as provided below. The design and construction of the wastewater system improvements shall be in accordance with the standards in the Infrastructure Design Standards, and in accordance with TCEQ standards.
 - b. On-site sewage facilities such as septic or aerobic systems may be permitted where each lot is one acre or more in area, if the subdivision is 300 feet or more from a connection to a wastewater collection system. They shall meet the city's adopted standards for on-site sewage facilities.
3. Subdivider Responsibilities: The subdivider shall be responsible for the following:
 - a. Phasing of development or improvements in order to maintain adequate water and wastewater services.
 - b. Extensions of utility lines (including any necessary on-site and off-site lines) to connect to existing utility mains of adequate capacity.
 - c. Providing and/or procuring all necessary easements for the utilities whether on-site or off-site
 - d. Providing proof to the city of adequate water and wastewater service.
 - e. Providing for future expansion of the utilities if such will be needed to serve future developments, subject to the city's policies, if applicable.

- f. Providing all operations and maintenance of the private utilities or providing proof that a separate entity will be responsible for the operations and maintenance of the utilities.
 - g. Providing all fiscal security required for the construction of the utilities.
 - h. Obtaining approvals from the applicable utility providers if other than the city.
 - i. Complying with all requirements of the utility providers, including the city.
4. Location of Lines: Extension of water and wastewater lines shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare in rights-of-way or dedicated easements.
- a. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be to the edge of the Subdivision's perimeter property line adjoining any undeveloped property or accomplished in such a manner as to allow future connections to said utilities by new subdivisions.
 - b. If new subdivisions are not likely to be developed beyond the proposed subdivision (due to physical constraints), the Administrator may waive the requirement for adjacent utility line construction at the time of preliminary plat approval and prior to construction of the subdivision.
 - c. The city shall determine the location and routing of water and sewer extensions and shall retain the authority to reject any extension not deemed to be in the best interest of the city.
5. Utilities Not Specified: Installation, operations and maintenance of utilities not specifically referenced herein shall comply with regulations of the TCEQ and with any other applicable State rules and regulations, whichever is the most stringent.
6. Dead-End Water Lines
- a. Dead-end water lines should be avoided, but when deemed necessary, they should be extended to, and then through, the property sought to be subdivided.
 - b. All dead-end water lines shall be valved and provided with a valve and fire hydrant located at the extreme end of the line instead of the blow-off mechanism for their flushing, in accordance with the Infrastructure Design Standard specifications.

Sec. 17-27. – Drainage and Environmental Standards.

1. Drainage System Generally
- a. Drainage improvements shall accommodate runoff from the upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system or adversely impacting either upstream or downstream properties.
 - b. The city may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development.
 - c. No storm water collection system shall be constructed unless it is designed by a licensed professional engineer and in accordance with this section and with the Infrastructure Design Standards, and unless it is reviewed and approved by the Administrator.
 - d. All plans submitted to the Administrator for approval shall include a layout of the drainage system together with supporting calculations for the design of the system.
 - e. Drainage Easements shall be kept clear of all obstructions, such as but not limited to, fences, buildings, trees and shrubs, or other structures or improvements which in any way endanger or interfere with the construction, maintenance, or operation of any drainage system.
2. Off-Site Drainage
- a. The applicant/developer/property owner of the subject property to be developed shall be solely responsible for all storm drainage flowing on or from the subject property. This responsibility includes the drainage directed to that property by prior development as well as drainage naturally flowing through the property by reason of topography.

- b. Adequate consideration shall be given by the applicant/developer/property owner in the development of property to determine how the discharge leaving the proposed development will affect downstream property. As part of any application for development that will affect downstream property, the applicant/developer/property owner shall furnish the city with a letter signed by a Texas Professional Engineer stating that the development as designed will not cause any adverse impact and will not damage downstream property due to the development's impact on off-site drainage.
 - c. Storm water runoff that has been collected or concentrated on lots or tracts of five acres or more shall not be permitted to drain onto adjacent property except into existing creeks, channels or storm sewers, unless proper drainage easements or notarized letters of permission from any affected downstream property owner(s) are provided.
- 3. Cross-lot Drainage Prohibited: Drainage between residential lots is the responsibility of the affected applicant/developer/property owner. Applicants/developers/property owners are required to drain surface runoff from an individual lot to a public right-of-way or to an underground drainage system contained in a public easement and will not be allowed to surface drain onto another lot. The Administrator shall have the discretion to allow modifications to the lot-to-lot drainage requirements where adherence to these requirements would be in conflict with other city ordinances and/or regulations.
- 4. Erosion and Sedimentation Control: All erosion and sedimentation controls shall conform to the Infrastructure Design Standards and the current National Pollution Discharge Elimination System (NPDES) regulations.
- 5. Changing Existing Ditch, Channel, Stream or Drainage Way: No person or entity shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainage way without first obtaining written permission of the Administrator and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The Administrator may require preparation and submission of a CLOMAR, LOMR, other appropriate map revision or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer
- 6. Siting of Lots and Building Sites: In order to help reduce storm water runoff, and resulting erosion, sedimentation and conveyance of nonpoint source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.
- 7. Approval: Lots in any proposed subdivision shall not be approved until drainage facilities adequate to prevent flooding have been installed or necessary arrangements made for such installation as required under this Article.
- 8. Issuance of Building Permits: On any lot/subdivision designated by the Administrator as requiring completion or partial completion of drainage improvements prior to building construction, no building permits shall be issued prior to a release authorized by the Administrator.

ARTICLE IV – IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF SUBDIVISION

Sec. 17-28. – Generally.

The requirements as set forth below are designed and intended to ensure that, for all subdivisions subject to this Article, all improvements as required herein are installed properly and:

- 1. The city can provide for the orderly and economical extension of public facilities and services.
- 2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land.

3. All required public improvements are constructed in accordance with the Infrastructure Design Standards.

Sec. 17-29. – Adequate public facilities policy.

The land to be divided or developed must be served adequately by essential public facilities and services. No plat shall be recorded unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. Wherever the subject property adjoins undeveloped land, or wherever required by the city to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners.

Sec. 17-30. – Public improvements required.

Public improvements that are required by the City of Athens for the acceptance of any subdivision by the city shall include the following:

1. Water and wastewater facilities
2. Storm water drainage, collection and conveyance facilities
3. Water quality, erosion and sedimentation controls
4. Streets
5. Streetlights
6. Street signs
7. Alleys (if provided)
8. Sidewalks, including TAS approved ramps at street intersections and other appropriate locations
9. Perimeter landscaping, screening and/or retaining walls (where required)
10. Common area improvements
11. Traffic control devices required as part of the project
12. Appurtenances to the above, all designed and constructed in accordance with TAS standards, if applicable, and any other public facilities required as part of the proposed subdivision

Sec. 17-31. – Compliance required.

All aspects of the design and construction of public improvements shall comply with the current Infrastructure Design Standards and any other applicable City codes and ordinances, including preparation and submittal of engineering plans and construction inspection.

Sec. 17-32. – Utility lines.

All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under the street or alley pavement, they shall be installed to a point at least three feet beyond the edge of the pavement.

Sec. 17-33. – Monuments.

1. Block Corner Monuments: Monuments consisting of 3/4-inch diameter steel rods 24 feet long and set flush with the top of the ground shall be placed at all corners of block lines, the point of intersection of alley and block lines, and at points of intersections of curves and tangents of the subdivision. Each block corner monument shall be marked in a way that is traceable to the responsible registered professional land surveyor or associated employer.

2. Lot Corner Monuments: Lot corner monuments shall be placed at all lot corners (except corners which are also block corners), consisting of iron rods or pipes of a diameter of not less than ½-inch and 24 inches in length, and set flush with the top of the ground.
3. Curve Point Markers: In addition, curve point markers shall be established of the same specifications as lot corners.
4. View between Monuments Obstructed: Where, due to topographic condition, permanent structures, or other conditions, the view is obstructed between any two adjacent monuments, intermediate monuments shall be so set as to assure a clear view between adjacent monuments.
5. Installed Prior to Acceptance & Filing: All required block, lot, and curve monuments shall be installed prior to the final acceptance of the subdivision by the city and prior to filing the plat at the county.
6. Precision and Error of Closure: All survey work around the boundary area, as well as within the subdivision, shall satisfy the following precision requirements and otherwise comply with the section of the Texas Administrative Code relating to technical standards for professional land surveying, as applicable:
 - a. The actual relative location of corner monuments found or set within the corporate limits of the city shall be reported within a positional tolerance of 1:10,000 + 0.10 feet.
 - b. The actual relative location of corner monuments found or set within the extraterritorial jurisdiction of the city shall be reported within a positional tolerance of 1:7,500 + 0.10 feet.
 - c. The actual relative location of corner monuments found or set in all rural areas outside the corporate limits and extraterritorial jurisdiction of the city shall be reported within a positional tolerance of 1:5,000 + 0.10 feet.
 - d. Areas, if reported, shall be produced, recited, and/or shown only to the least significant number compatible with the precision of closure.
 - e. Survey measurement shall be made with equipment and methods of practice capable of attaining the tolerances specified by these standards.
 - f. Positional tolerance of any monument is the distance that any monument may be mislocated in relation to any other monument cited in the survey.
7. A subdivision containing five acres or more shall have at least two monuments set by the registered professional land surveyor, if not already existing, for two corners of the subdivision, and such monuments shall be located at opposite ends (or at widely separated corners) of the subdivision and clearly shown on the final plat prior to filing at the county. The final plat shall also show clear ties to existing monuments in the vicinity of the subdivision.

Sec. 17-34. – Streetlights.

Streetlight locations and installations shall be coordinated by the applicant/developer with the power company and the city. Street lighting shall conform to the Infrastructure Design Standards. Streetlights shall be installed a maximum distance of 600 feet apart, at intersections, and at the ends of cul-de-sacs. The applicant/developer shall pay for the electricity used by the streetlights until building permits are issued for 80% of the lots, after which time the city shall pay for the cost of electricity used.

Sec. 17-35. – Street sign installation.

1. Street name signs shall be installed by the applicant/developer/property owner at all intersections within or abutting the subdivision. Such signs shall be of a type approved by the city and shall be installed in accordance with standards of the city. Traffic signs shall be furnished in accordance with the latest Texas Manual on Uniform Traffic Control Devices (MUTCD).
2. Timing of Installation: All street signs shall be installed before final acceptance of the subdivision by the city.

Sec. 17-36. – Street and alley improvements.

1. Facilities Constructed by the Developer: All facilities, such as internal streets and alleys, existing or proposed streets located immediately adjacent to the property, that are required to be constructed or improved in order to adequately serve the development, shall be constructed by the developer at the developer's expense, unless otherwise allowed by this Article.
2. Construction and Design: All streets and alleys shall be designed and constructed to meet the Infrastructure Design Standards and shall conform in width and section to any approved development specific ordinance or adopted Master Thoroughfare Plan.
3. Paving Standards: The developer shall construct all streets and alleys according to the standards contained within the Infrastructure Design Standards.
4. TAS Compliance: In addition to the above-mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street intersections, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with the Highway Safety Act, as amended, and with the Texas Accessibility Standards (TAS), as amended.
5. Signs and Barricades: All signs and barricades shall be in conformity with the Infrastructure Design Standards, with TAS standards, and with specifications for uniform traffic control devices, as adopted by the city, Henderson County, Texas Department of Transportation, or the Texas Department of Public Safety, as applicable.

Sec. 17-37. – Subdivision perimeter fencing, buffering, and landscaping.

1. Subdivision perimeter fencing shall be required per standards in the Zoning Ordinance or per a development specific ordinance as approved by the City Council.
2. Buffering and landscaping for any common areas or public improvements shall be required per standards in the Zoning Ordinance or per a development specific ordinance as approved by the City Council.
3. The developer shall provide (at his/her expense) such required fencing, buffering and/or landscaping prior to acceptance of a subdivision by the city.

Sec. 17-38. – Subdivision identification signs.

1. Subdivision identification signs are permitted at the entrance of residential subdivisions which are bisected by one or more streets. Such subdivisions must have:
 - a. 10 or more platted single-family or duplex, triplex, quad-plex residential lots; or
 - b. 20 or more multi-family units.
2. Subdivision identification signs may be free standing or may be incorporated on a subdivision perimeter fence located in an appropriate easement.
3. Standards:
 - a. The maximum size of a subdivision identification sign shall be 50 square feet per sign with a maximum height of six feet unless an alternative design is otherwise approved by the City Council.
 - b. Signs may be located at each corner of an intersection of an entrance street or within the median of a divided street but shall not be located in within visibility triangles.
 - c. The design of the subdivision identification Sign shall be in accordance with the Sign Ordinance or Infrastructure Design Standards, as applicable.
 - d. The design of the subdivision identification sign (including any related perimeter fence) shall be reflected on materials/plans submitted along with the preliminary plat and the engineering plans.

Sec. 17-39. – Water and wastewater requirements.

1. Installation: The design, construction and installation of all water and wastewater lines shall be in conformance with this Ordinance, any adopted Master Plan, and the Infrastructure Design Standards and shall be approved by the Administrator.
2. Provision for Water and Wastewater Required: No final plat shall be approved, nor subdivision accepted within the city or its extraterritorial jurisdiction until the applicant/developer/property owner has made adequate provision for a water system, fire protection, and a sanitary sewer system per the requirements of this Ordinance.
3. Safe Water Supply and Fire Protection: Water system mains of sufficient size and having a sufficient number of outlets to furnish adequate and safe domestic water supply and to furnish fire protection to all lots shall be provided.
4. Water and Wastewater Mains to Property Line: Water and wastewater mains shall extend to the farthest property line in order to allow future connections into adjacent undeveloped property unless otherwise authorized by this Ordinance.
5. Utilities to Property Line of Each Lot: Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structures when connections are made.
6. Fire Protection: Fire hydrants and protection apparatus shall be provided in accordance with the Infrastructure Design Standards, and with any other city policy or ordinance pertaining to fire protection or suppression.
 - a. The Administrator shall have the authority to approve the locations and placement of all fire hydrants, fire lanes, and easements in accordance with the adopted Fire Code. Fire hydrant spacing or fire lane placement may be modified based upon special design or distance circumstances with approval of the Administrator.
 - b. Vertical construction (i.e., any building construction above foundation/slab level) shall not commence until all required fire lanes are properly installed and accepted by the city, nor until all fire hydrants have been installed, inspected, tested and accepted by the city.

Sec. 17-40. – Storm drainage and water quality controls.

1. Adequate Storm Sewer System Required: An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities.
2. Areas Subject to Flood Conditions or Storm Water Retention: Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as determined by the Administrator, will not be considered for development until adequate drainage has been provided.
3. Design: The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and other drainage facilities shall conform to the requirements of this Ordinance and any adopted Infrastructure Design Standards.
4. Maintenance Bond:
 - a. The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance/performance bond.
 - b. Responsibility: The developer shall be responsible for removing any significant build-up of sediment or debris from drainage improvements, through maintenance/performance bond time period for the applicable facilities.
 - c. City Inspection: The city shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.
5. Storm Water Pollution Prevention Plan (SWPPP):

- a. An SWPPP shall be provided for storm water discharge in accordance with Texas Pollutant Discharge Elimination System (TPDES) general permit, TXR150000, and/or Environmental Protection Agency (EPA) regulations. This shall include the assumption of responsibility of said pollution prevention system, including the design and implementation of said system, complete in place. Moreover, when it comes to SWPPP, only the developer/contractor has the sole authority, responsibility and control over plans and specifications of the said SWPPP and can make changes to those specifications for the entire project as deemed necessary or needed to remain in compliance with the Texas Commission on Environmental Quality (TCEQ) and/or EPA regulations.
- b. When site stability is achieved in accordance with the SWPPP, the developer shall remove the control apparatuses, devices, and systems and remove accumulated silt and debris.

Sec. 17-41. – Private utilities.

1. Utility companies shall submit plans when constructing new overhead lines, underground lines, and upgrading existing lines within the rights-of-way. The city shall review and permit such plans per the requirements in this Ordinance, any applicable state laws, and the Infrastructure Design Standards. Nonemergency utility work shall be coordinated with the city's Capital Improvements Plan to reduce disruption due to construction to the community. Utility companies are not required to obtain a permit in the event of an emergency in order to restore service.
2. All subdivision plats shall provide for utility services such as electrical, gas, telephone, and cable TV utility (lateral and/or service distribution) lines and wires including, but not limited to, street lighting, to be placed underground.
3. The developer shall be responsible for obtaining verification from the utility companies for easement locations and widths prior to the final approval of construction plans by the city. Any changes during construction shall be approved by the utility companies and the city.
4. Where existing overhead service or lateral/distribution utilities lines are located within the land proposed for development and the lines must be relocated to accommodate the development, the developer is responsible for relocation and placement of the lines underground.
5. All new service lines to individual lots in a subdivision shall be placed underground.
6. In special or unique circumstances or to avoid severe hardships that are not financial, the city may authorize waivers to this requirement and permit the construction and maintenance of overhead electric utility lateral or service lines and of overhead telephone or cable TV lines and may approve any plat with such approved exceptions. Such waivers may only be approved by City Council prior to final plat approval and upon the execution of the 30-day waiver by the applicant.
7. Where electrical service is to be placed underground, all other utilities, including circuits for street and site lighting, except street lighting standards, shall also be placed underground.
8. Each of the utility companies shall be responsible for developing administrative policies and cost reimbursement procedures for the installation and extension of their underground utilities. Each utility company shall have the right to charge or recover costs associated with installing underground utilities in accordance with the respective utility's Tariff for Service and/or Line Extension Policy. No utility company shall be required to begin construction of underground facilities unless and until the owner or developer of the subdivision has made arrangements with the respective utility company for payment in accordance with that respective utility's Tariff for Service and/or Line Extension Policy governing utility installations and their cost.
9. Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.
10. All installations regulated by this section shall also conform to the standards for utility construction as per the Infrastructure Design Standards.

ARTICLE VI – REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY THE CITY

Sec. 17-42. – Withholding city services and improvements until acceptance.

The city will withhold all city services and lot permits of any type until all required improvements are properly constructed according to the approved engineering plans and to the Infrastructure Design Standards, and until such public improvements are dedicated to and accepted by the city.

Sec. 17-43. – Guarantee of public improvements.

1. Developer's Guarantee: Before final acceptance of a subdivision located all or partially within the city or its extraterritorial jurisdiction, the city must be satisfied that all required public improvements have been constructed in accordance with the approved engineering plans and with the requirements of this Ordinance.
2. Development Agreements & Guarantee: The City Council may waive the requirement that the developer/applicant complete and dedicate all public improvements prior to final acceptance of the subdivision and may permit the developer to enter into a Development Agreement by which the developer pledges to complete all required public improvements within two years. The Development Agreement shall contain such other terms and conditions as are agreed to by the developer and the city and shall be approved by the City Council.
3. Development Agreement Required for Oversize Facility Reimbursement: The city may participate in the oversizing of water and sewer facilities required to serve the land areas and improvements beyond the subdivision. The city shall require a Development Agreement pertaining to any public improvement for which the developer shall request reimbursement from the city for oversize costs. Such agreements shall only be approved by the City Council.
4. Financial Guarantee:
 - a. Whenever the city permits a developer/applicant to enter into a Development Agreement, it shall require the developer/applicant to provide sufficient financial guarantee, covering the completion of the public improvements. The financial guarantee shall be in the form of cash escrow or, where authorized by the city, a Performance Bond or letter of credit or other instrument acceptable to the Administrator and the City Attorney. The financial guarantee shall be in an amount equal to 110 percent of the estimated cost of completion of the required public improvements and lot improvements. The Administrator shall review and approve the cost estimates provided by the developer.
 - b. Additional Financial Guarantee. If the financial guarantee on any Performance Bond furnished by the developer/applicant is declared bankrupt, or becomes insolvent, or its right to do business is terminated in the State of Texas, or if the financial guarantee ceases to meet the requirements listed in Circular 570, the developer shall, within 20 calendar days thereafter, substitute another Performance Bond which must be acceptable to the city.
 - c. Withholding Until Improvements or Other Financial Guarantee: The city may withhold building permits, certificate of occupancy permits, or utility connections until required public improvements are completed or other financial guarantee is provided to the city.
 - d. Reducing Amount of Financial Guarantee: As portions of the required public improvements are completed, the developer/applicant may make written application to the city to reduce the amount of the original financial guarantee. If the city is satisfied that such portion of the improvements has been completed in accordance with approved plans and Infrastructure Design Standards, the Administrator may allow the amount of the financial guarantee to be reduced by such amount that is deemed appropriate, so that the remaining amount of the financial guarantee adequately insures the completion of the remaining required public improvements.

5. Escrow Policies and Procedures for Streets:
- a. Whenever this Ordinance requires a developer/applicant to construct a street or thoroughfare, the developer/applicant may petition the city to construct the street or thoroughfare, usually at a later date, in exchange for deposit of escrow as established in this section.
 - b. The basis of such petition shall be the existence of unusual circumstance(s), such as a timing issue due to pending street improvements by the city or another agency such as TxDOT or Henderson County that would present undue hardships or that would impede public infrastructure coordination or timing.
 - c. The City Council shall review the particular circumstances involved, and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the developer's obligation to construct the street or thoroughfare at the time of the subdivision development.
 - d. Whenever the City Council agrees to accept escrow deposits in lieu of construction by the developer of the street or thoroughfare, the developer shall deposit in escrow with the city an amount equal to costs of the following:
 - i. Administration
 - ii. Advertisements
 - iii. Bidding
 - iv. Bonds
 - v. Contingency
 - vi. Testing
 - vii. Design
 - viii. Construction
 - ix. Permits
 - x. Reviews and approvals
 - xi. Inspections
 - xii. Any additional land acquisitions
 - xiii. An appropriate (and realistic) inflation factor to ensure that the actual "future dollar" costs will be covered when actual construction occurs in the future.
 - e. Determination of Escrow Amount. The amount of the escrow shall be determined by using the maximum comparable "turn-key" bid price of construction of the street or thoroughfare improvements including the items listed in subparagraph (d) above.
 - f. The escrow amount shall be paid prior to release (approval) of engineering plans by the Administrator. The obligations, responsibilities, and related liability of the developer shall become those of the developer's transferees, successors and assigns.
 - g. Escrowed amounts, along with any interest accrued on such amount, may be used for the purposes outlined in subparagraph (d) above in order to undertake construction of the facilities that are required as part of the development for which the escrow was submitted.
 - h. Escrows, or portions of escrowed amounts, which have been placed with the city under this section and which have been held for a period of 10 years from the date of such payment or agreement, in the event that the city has not authorized the preparation of plans and specifications for construction of such street facilities for which the escrow was made, shall, upon written request, be returned to the developer, along with its accrued interest. Such return does not remove any obligations of the developer for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
 - i. If any street or thoroughfare for which escrow is deposited is constructed by a party other than the city, or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the developer/applicant who originally paid the escrow amount after completion and acceptance of the public

improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the developer's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

Sec. 17-44. – Temporary improvements.

1. Responsibility: The developer/applicant shall build and pay for all costs of any temporary improvements required by the city and shall maintain such improvements for the period specified by the city.
2. Temporary Easement: Any temporary improvement (e.g., a temporary cul-de-sac, alley turnout, drainage swale, erosion control device, etc.) shall be placed within a temporary easement established specifically for that purpose. The recording information of the instrument establishing the temporary easement shall not be shown on the final plat unless it is a permanent easement for the subdivision. A temporary easement may be abandoned with the Administrator's written consent.

Sec. 17-45. – Failure to complete improvements.

In those cases where a Development Agreement has been executed and financial guarantee has been posted, and the required public improvements have not been installed within the terms of the agreement, the city may:

1. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default.
2. Suspend any previously authorized building construction activity within the subdivision until the public improvements are completed and record a document to that effect for the purpose of public notice.
3. Obtain funds under the financial guarantee and complete the public improvements itself or through a third party.
4. Assign its right to receive funds under the financial guarantee to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property.
5. Exercise any other rights or remedies available under the law.

Sec. 17-46. – Maintenance guarantee.

1. A developer shall furnish a good and sufficient maintenance bond issued by a reputable and solvent corporate surety approved by the Texas Insurance Commission, in favor of the city, to indemnify the city against and guarantee the costs of any repairs which may become necessary to any part of the construction work performed in connection with the subdivision, arising from defective workmanship or materials used therein, for a full period of two years from the date of final acceptance of the entire project or a phase of the project, if the city elects to accept a particular phase before the entire project is completed.
2. A separate maintenance bond must be furnished for work done under each contract for each part of such construction work unless otherwise authorized by the city.
3. Final acceptance will be withheld until said maintenance bond is furnished to and approved by the city. The maintenance bond shall have attached thereto a copy of the construction contract for such improvements and such other information necessary to determine the validity and enforceability of such bond. No permits shall be issued by the city on any piece of property other than an original

or a re-subdivided lot in a duly approved and recorded subdivision or on a lot of separate ownership of record prior to the approval of any required maintenance bond.

4. The Administrator may waive the requirement for a maintenance bond for projects with a construction cost of \$5,000 or less.

Sec. 17-47. – Construction procedures.

1. Site Development Permit: A site development permit shall be required from the city prior to beginning any site development-related work in the city which affects erosion control, grading, storm drainage, clear-cutting of trees, or a flood plain.
2. Conditions Prior to Authorization: Prior to issuing a site development permit, the Administrator shall be satisfied that the following conditions have been met:
 - a. The final plat has been approved by the City Council and any conditions of such approval have been satisfied.
 - b. All required engineering plans and documents are completed and approved by the city
 - c. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of approval of the city, and at least one set of these plans shall remain on the job.
 - d. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the city.
 - e. All applicable fees must be paid to the city.
3. Nonpoint Source Pollution Controls and Tree Protection: All nonpoint source pollution controls, erosion controls, and tree protection measures and devices shall be in place, to the Administrator's satisfaction, prior to commencement of construction on any property.

Sec. 17-48. – Inspection and acceptance of public improvements.

1. The city will perform inspections throughout the construction phase to ensure that construction is being accomplished in accordance with the plans and specifications approved by the city.
2. The developer shall notify the city at least 48 hours prior to commencement of construction. This notice shall give the location and date of the start of construction.
3. The city shall have the right to inspect any construction work being performed to ensure that it is proceeding in accordance with the intent of the provisions of this Ordinance.
4. If the city finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the approved construction plans, and/or Infrastructure Design Standards, then the developer shall be responsible for completing and correcting the deficiencies (at the developer's expense) such that they are brought into conformance with the applicable standards.
5. Letter of Satisfactory Completion:
 - a. The city will only deem required public improvements satisfactorily completed when the developer's engineer or registered professional land surveyor has certified to the city (through submission of detailed sealed "as-built" or record drawings of the property drawings) that indicate all public improvements and their locations, dimensions, materials and other information required by the city, and when all required public improvements have been completed.
 - b. When the requirements of subsection (a) above have been met to the Administrator's satisfaction, and when a maintenance bond has been received and approved as required in this Ordinance, the Administrator shall issue a Letter of Satisfactory Completion.
6. Effect of Acceptance: Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the city for use and maintenance, subject to the two-year maintenance bond.

Sec. 17-49. – Inspection of building permits and certificates of occupancy.

1. Building Permit:

- a. A building permit shall only be issued for a lot, building site, building or use after the lot or building site has been officially recorded by a final plat approved and filed per this Ordinance and after all public improvements have been completed per this Article.
- b. Notwithstanding subsection (a) above, a permit may be issued as outlined below, provided that an agreement providing sufficient financial guarantee is approved for the completion of all remaining public improvements.
 - i. Building “Foundation-Only” Permit: A building “foundation only” permit may be issued for a nonresidential or multi-family development. However, the building permit shall not be issued and building construction shall not be allowed to surpass the construction of fire protection improvements. In other words, the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, inspected and tested.
 - ii. Possible Release of Lots. The Administrator may release some residential building permits for not more than 10 percent of the lots within a new residential subdivision, provided that all public improvements have been completed for that portion of the development including those required for fire and emergency protection. No lot may be sold, nor title conveyed until the final plat has been recorded with Henderson County.

2. Certificate of Occupancy:

- a. A certificate of occupancy shall only be issued for a building or the use of property after a final plat has been approved and filed per this Ordinance, and after all subdivision improvements have been completed and accepted.
- b. Notwithstanding subsection (a) above, a certificate of occupancy may be issued provided that an agreement providing sufficient financial guarantee is approved for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the city’s adopted building codes. No lot may be sold, nor title conveyed until the final plat has been recorded with Henderson County.

ARTICLE VI – ENFORCEMENT AND PENALTIES

Sec. 17-50. – Purpose.

This Article establishes procedures through which the city seeks to ensure compliance with the provisions of this Ordinance and obtains corrections for violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance.

Sec. 17.51. – Violations.

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided for in this Ordinance.

- 1) Establish Any Use or Structure Without Permit or Approval: To establish or place any use or structure upon land that is subject to this Ordinance without all the approvals required by this Ordinance.

- 2) Development or Subdivision Without Permit or Approval: To engage in any subdividing, development, construction, remodeling, or other activity of any nature upon land that is subject to this Ordinance without all the approvals required by this Ordinance.
- 3) Development, Subdivision, or Use Inconsistent with Permit: To engage in any improvements, development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization providing for such activity.
- 4) Development, Subdivision, or Use Inconsistent with Conditions of Approval: To violate, by act or omission, any term, condition, or qualification placed by a decision- making authority upon any permit or other form of authorization.
- 5) Development or Subdivision Inconsistent With This Ordinance: To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, or structure, or to engage in development or subdivision of any land in violation of any zoning, subdivision, or other regulation within this Ordinance.
- 6) Making Lots or Setbacks Nonconforming: To reduce or diminish any lot area so that the lot size, setbacks, or open spaces shall be smaller than required, unless in accordance with any exceptions provided under this Ordinance.
- 7) Increasing Intensity or Density of Use: To increase the intensity or density of use of any land or structure, except in accordance with the requirements and standards of this Ordinance.
- 8) Removing or Defacing Required Notice: To remove, deface, obscure, or otherwise interfere with any notice required by this Ordinance.

Sec. 17-52. – Responsible Persons.

A responsible person is any person who has ownership, care, custody or control of a property, building or portion of a building. A responsible person includes, but is not limited to an owner, manager, tenant or contractor. Any responsible person who violates this Ordinance shall be subject to the remedies and penalties set forth in this Article.

Sec. 17-53. – Responsibility for Enforcement.

The Administrator shall have primary responsibility for enforcing all provisions of this Ordinance. Other officers of the city, as designated by the City Manager, may share responsibility for enforcing provisions of this Ordinance.

Sec. 17.54. – Enforcement Procedures.

- 1) Remedies and Enforcement Powers: The city shall have the remedies and enforcement powers in this section.
- 2) Withhold Permit:
 - a. The city may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or use or improvements upon a determination that there is an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the city. This enforcement provision shall apply regardless of whether the current or previous owner or lessee or applicant is responsible for the violation in question.
 - b. The city may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, use, or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate, approval, or other authorization

- previously granted by the city. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property with the violation.
- 3) Permits Approved with Conditions: Instead of withholding or denying a permit or other authorization, the city may grant such authorization subject to the condition that the violation be corrected.
 - 4) Revocation of Permits or Authorization:
 - a. Any permit or other form of authorization required under this Ordinance may be revoked, after notice to the applicant, when the Administrator determines that:
 - i. There is a departure from the approved plans, specifications, limitations, or conditions as required under the approved permit or authorization;
 - ii. The permit or authorization was procured by false representation;
 - iii. The permit or authorization was issued in error; or
 - iv. There is a violation of any provision of this Ordinance or condition of approval.
 - b. Written notice of revocation shall be sent to the property owner, agent, applicant, or other person to whom the permit or authorization was issued. No work or construction shall proceed after revocation notice has been sent.
 - 5) Stop Work Order:
 - a. With or without revoking permits, the city may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Ordinance, an Adopted Ordinance, or of a permit or other form of authorization issued, in accordance with the city's power to stop work under its building codes.
 - b. The stop work order and any associated penalties shall be in writing and directed to the person doing the work and shall specify the provisions of this Ordinance or permit or authorization that is in violation. After any such order has been sent, no work shall proceed on any building, structure, or land covered by such order, except to correct such violation or comply with the order.
 - c. Once the violations of the ordinance, permit, authorization or conditions have been remedied or met, the Administrator shall rescind the stop work order.
 - 6) Municipal Citation: The city, through the Administrator or other employee, may issue citations to be prosecuted in the city's municipal court.
 - 7) Injunctive Relief: The city may seek an injunction or other equitable relief in an appropriate court in Henderson County, Texas to stop any violation of this Ordinance or of a permit, approval, or other form of authorization granted under this Ordinance.
 - 8) Withhold Public Services: The city may withhold any public services until all violations have been remedied and all the requirements of this Ordinance have been met.
 - 9) Other Remedies: The city shall have such other remedies as are and as may be from time-to-time provided by law for the violation of zoning, subdivision, sign, or related ordinance provisions.
 - 10) Other Powers: In addition to the enforcement powers specified in this Article, the city may exercise any and all enforcement powers granted by law.
 - 11) Continuation: Nothing in this Ordinance shall prohibit the continuation of previous enforcement actions undertaken by the city pursuant to previous and valid ordinances and laws.

Sec 17-55. – Cumulative Remedies.

The remedies and enforcement powers established in this Article shall be cumulative and the city may exercise them in any order or combination at any time.

Sec. 17.56. – Penalties for Violation.

- 1) Any person or corporation who violates any of the provisions of this Ordinance or fails to comply with any of the requirements thereof, or who builds or alters any building, structure, sign, or use or

who develops, constructs, remodels, or any other activity of any nature upon land in violation of any permit or authorization shall be guilty of a misdemeanor punishable under this section.

- 2) The owner or owners or tenant of any building or premises or part thereof, where anything in violation of this Ordinance is placed or exists, and any architect, builder, contractor, agent, person, or corporation employed by the owner or tenant who may have assisted in the commission of any such violation shall be guilty of a separate offense punishable under this section.
- 3) Any person or corporation violating any of the provisions of this Ordinance shall, upon conviction, be fined any sum not exceeding two thousand dollars (\$2,000.00) and each and every day that the provisions of this Ordinance are violated shall constitute a separate and distinct offense.

Section 2. Should any clause, phrase, sentence section of this Ordinance be deemed invalid or unconstitutional by a court of competent jurisdiction, said finding shall not affect the remaining clauses, phrases, sentences or sections of this Ordinance.

Section 3. Any ordinance, resolution or order previously passed and/or adopted by the City Council, or any part thereof, if found to be in conflict with the provisions of this Ordinance, shall be resolved in favor of the terms and conditions of this Ordinance, and any prior conflicting ordinance, resolution or order or any part thereof, is hereby repealed to the extent of said conflict.

Section 4. This ordinance shall be and become effective from and after its adoption and publication in accordance with the provisions of the Charter of the City of Athens, Texas.

PASSED, APPROVED and ADOPTED this the **13th day of July, 2020** at a regular meeting of the City Council of the City of Athens, Texas, with the following record vote:

Monte Montgomery, Mayor	Aye
Ed McCain, Mayor Pro Tem	Aye
Aaron Smith, Councilmember	Aye
Robert Gross, Councilmember	Aye
Voted in favor of the motion	4
Voted against the motion	0
Motion carried	4-0

Monte Montgomery, Mayor

ATTEST:

Bonnie Hambrick, City Secretary