

## **Chapter 4-6 Platting and Subdivision Improvement and Maintenance.**

### **Article I—In General.**

#### **Section 4-6-1. Authority, Purpose, & Enforcement.**

a) *Authority.* The procedures and standards of this Chapter are adopted under the authority of the constitution and laws of the State of Texas, including but not limited to V.T.C.A., Local Government Code Ch. 212 [§ 212.001 et seq.], as amended and Article I, Section 3 of the Charter of the City. The provisions of this Article are expressly extended to all areas inside the City Limits and the City's Extraterritorial Jurisdiction and shall be administered by the Planning and Zoning Commission and City Council.

b) *Purpose.*

- 1) The subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid and vital function of a municipal government. It is the City's intention, by implementing subdivision regulations, to provide a mechanism for a fair and rational procedure for developing land which promotes the health, safety, and general welfare of the municipality and the safe and orderly development of the municipality and areas within its Extraterritorial Jurisdiction.
- 2) The provisions of this Chapter are intended to:
  - a. Promote the development and the use of land in a manner that assures an attractive and elevated quality of community in accordance with the Comprehensive Plan and the zoning regulations of the City of Amarillo;

- b. Guide and assist Developers in the correct procedures to be followed, and to inform them of minimum standards which shall be required;
  - c. Protect the public interest by imposing standards for the location, design, and types of streets, sidewalks, alleys, utilities, and other essential public services;
  - d. Assist orderly, efficient, and coordinated development within the corporate City Limits and extraterritorial jurisdiction;
  - e. Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;
  - f. Ensure the most efficient and beneficial provisions of public facilities and services for each tract being subdivided;
  - g. Provide for circulation of vehicular and pedestrian traffic throughout the municipality;
  - h. Ensure that public facilities are available and will have sufficient capacity to serve proposed and future developments and citizens within the City and its extraterritorial jurisdiction;
  - i. Ensure that each subdivision approved by the City is designed in such a way as to minimize storm water runoff from the site and to minimize flooding potential downstream from such subdivisions;
- and

j. Securing safety from fire, flood, and other dangers by providing for adequate air, light, and privacy which prevents overcrowding of the land and undue congestion of population.

3) The provisions of this Chapter shall be minimum requirements for the platting and developing of a subdivision within the City of Amarillo and its extraterritorial jurisdiction, as authorized by State law.

c) *Enforcement.*

1) The provisions of this Chapter apply to any non-exempt (see Section 4-6-7) division of land, combination of separate land parcels, and/or development of land within the City Limits and within its extraterritorial jurisdiction.

2) The Building Official shall not issue building permits for any Structure on a Lot in a Subdivision for which a Final Plat has not been approved and recorded in the manner prescribed in this Chapter.

3) Director of Environmental Health shall not issue a permit for the installation of a septic system upon any Lot in a Subdivision for which a Plat has not been approved and recorded in the manner prescribed in this Chapter.

4) The City shall withhold all public improvements and services of whatsoever nature, including the maintenance of streets, and the furnishing of sewer facilities and water services from all Subdivisions which have not been approved, and from all areas dedicated to the public which have not been accepted by the City Council.

d) *Extraterritorial Jurisdiction Subdivisions.*

1. The owner of a tract of land must have a plat of the subdivision approved if the owner divides the tract into two or more parts including an addition, lots, or streets, alleys of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys.
2. All tracts under single ownership and described as a single tract greater than five (5) acres in size shall be exempt from the provisions of this Chapter unless the subdivision includes any streets, alleys intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys.
3. All lands subdivided or re-subdivided not otherwise exempted by part (ii) above shall be platted in accordance with the provisions of this Chapter.

e) *Deed restrictions and covenants.* Unless this Chapter imposes a greater restriction, it does not repeal, abrogate, annul, or in any way impair or interfere with private restrictions placed upon property by deed, covenant or other private agreements or with restrictive covenants running with the land.

#### **Section 4-6-2. Definitions.**

The following terms, phrases, words and their derivatives shall have the meaning ascribed to them in this Section. Definitions not expressly described in this section are to be determined in accordance with customary usage in municipal planning and engineering practices.

*Alley:* A minor way which is used primarily for installation of public Utilities, solid

waste collection, and for vehicular services access to the back or the side of properties otherwise abutting on a Street.

*Base flood elevation:* The elevations shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one (1) percent chance of equaling or exceeding that level in any given year.

*Block:* An area enclosed by Streets and occupied by or intended for buildings. As a term of measurement, Block shall mean the distance along a side of a Street lying between and adjoining two (2) intersecting Streets.

*Building Line:* A line parallel to the Street Right-of-Way line designating the minimum distance from the Street Right-of-Way line that a Structure may be erected.

*Comprehensive Plan:* A periodically updated series of documents that unifies all elements and aspects of City planning. This Plan reflects the best judgment of the staff, Planning and Zoning Commission, and the City Council and sets a policy for Zoning and Subdivision decisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public buildings, Streets, parks and other public and private developments and improvements.

*Construction Plan:* Detailed final construction drawings indicating street, alley, water, wastewater, drainage or the layout of other installations.

*Development Review Committee:* Staff may include but is not limited to

members from Building Safety, Engineering, Environmental Health, Fire Prevention, Parks, Planning, Public Works, and Utilities.

*Developer:* Any person, entity, or corporation who subdivides a tract or parcel of land to be sold or handled for his own personal gain or use

*Easement:* A right held by the City or its franchised Utility companies to be used for access, drainage or the placement of Utilities such as water, sewer, gas, telephone, cable television and electrical lines or other facilities.

*Engineer:* A person licensed to practice engineering under the provision of the Texas Engineering Practice Act.

*Extraterritorial Jurisdiction:* The contiguous unincorporated area not incorporated in any other city, within five (5) miles of the corporate limits of the City of Amarillo.

*Front/Frontage, Lot:* The length of a Lot adjacent to a Street between two (2) adjacent property lines of Lots.

*Front/Frontage, Street:* The length of all property on one (1) side of a Street lying between two (2) intersecting Streets measured along the Right-of-Way line, or if the Street is a Dead-end or Cul-de-sac, then the length of all property abutting on one (1) side between an intersecting Street and the end of the Dead-end Street or Cul-de-sac Street.

*Lot:* An undivided tract of land as shown on a recorded plat

*Main:* A water or wastewater line designed and installed to distribute water to or

collect sewage from lateral or service lines.

*Officials:* Any Official referred to in this chapter by title, i.e., Assistant City Manager, Building Official, City Attorney, City Secretary, City Engineer, Traffic Engineer, City Street Superintendent, Director of Environmental Health, Director of Utilities, Assistant Director of Utilities, Director of Public Works, Assistant Director of Public Works or Planning Director shall be the person so retained in this position by the City or his or her duly authorized representative.

*Official Filing Date:* The date upon which a Preliminary Plan or Final Plat application that contains all necessary elements required by this Chapter is deemed complete by the responsible official in the manner prescribed by Section 4-6-10 of this Article.

*Parcel:* Same as Lot.

*Performance Bond and/or Surety Bond:* A financial guarantee to ensure that all improvements, facilities, or work required by this Chapter will be completed in compliance with the ordinance, regulations, and approved plans and specifications of the development.

*Permittee:* Any person to whom a permit is issued.

*Planning and Zoning Commission:* The agency appointed by the City Council as an advisory body to it and which is authorized to act on Plats.

*Plat:* A map of a subdivision showing the location and boundaries of individual

parcels of land subdivided into lots, with streets, alleys, easements, etc., drawn to scale; also includes minor, replat, and amending plat. Shall refer to Final Plats meeting the requirements of this chapter.

*Plat, Final:* A Plat which complies with the requirements of V.T.C.A., Local Government Code Ch. 212 (§ 212.001 et seq.) and this Chapter.

*Preliminary Plan:* A map indicating the proposed layout of a subdivision meeting the requirements of Division II.

*Pre-application Conference:* An initial meeting between developers and the City's Development Review Committee which affords the developer the opportunity to present their proposals informally.

*Public Improvement:* Drainage ways, roadways, parks, utilities, or other facilities which the City will ultimately assume the responsibility for maintenance and operation, or which may affect an improvement established which affects the health, safety, or welfare of the general public.

*Replat:* The re-subdivision of any part or all of any Block or Blocks of a previously platted Subdivision.

*Right-of-Way, Public:* Any strip or area of land including surface, overhead or underground space which is used or intended to be used wholly or in part as a public Street or Alley, or as the location of public walkways and Utility or drainage facilities or installations.

*Security:* The bond, letter of credit, or cash escrow provided by the Developer to secure its promise in the Subdivision Improvement Agreement.

*Service Tap:* A water or wastewater pipe of a design capacity extended from the Main to the property line to serve a single Lot

*Shall, should, may:* The word "shall" is always mandatory. The word "should" is considered to be advisable usage, recommended but not mandatory. The word "may" is merely permissive.

*Sidewalk:* The Portland cement concrete, asphaltic concrete, or other permanent hard-surfaced material approved by the City Engineer that is located in the Street Right-of-Way intended for pedestrian use.

*Storm Water Management Criteria Manual:* A periodically updated document that sets out the minimum requirements and standards for planning, design, construction, operation and maintenance of storm water drainage facilities.

*Street:* The entire width between the boundary lines of every way, other than an Alley, publicly maintained when any part of it is opened to the use of the public for pedestrian and/or vehicular travel.

*Street, Arterial:* A principal traffic artery, more or less continuous across the City, which connects remote parts of the City or areas adjacent thereto and acts as a principal connecting Street with State and federal highways, and includes each Street designated as a primary or secondary Arterial Street in Amarillo's Functional Classification Transportation Plan.

*Street, Collector:* A Street which carries traffic from Local Streets to Arterial Streets or highways, including the principal entrance Streets of a Residential development and Streets for circulation in such a development.

*Street, Cul-de-sac or Court:* A Dead-end Street providing a turnaround for vehicles.

*Street, Dead-end:* A Street, other than a Cul-de-sac, with only one (1) outlet.

*Street, Industrial:* A Street intended primarily to serve traffic within an area of industrial development or proposed industrial development.

*Street, Local:* A Street which is intended primarily to serve traffic within a neighborhood or limited Residential District and which is not necessarily continuous through several Residential Districts.

*Street, Marginal Access:* A Local Street which is parallel and adjacent to an Arterial Street or highway and which provides access to abutting property and protection from through traffic.

*Street Width:* The shortest horizontal distance between the lines which delineate the Right-of-Way of a Street.

*Subdivider:* Same as Developer

*Subdivision:* The division of land into two (2) or more parts, lots, or sites for the purpose of sale, building, development, or division of ownership, whether immediate or future.

*Subdivision Improvement Agreement:* A contract entered into by the developer and the City by which the developer promises to complete the required public improvements in the subdivision within a specified time period following final plat approval.

*Subdivision, Suburban:* A Subdivision located outside the City limits and within the Extraterritorial Jurisdiction where all Lots are one (1) acre or larger.

*Subdivision, Urban:* Any Subdivision other than a Suburban Subdivision, whether with the City limits or its Extraterritorial Jurisdiction

*Surveyor:* A licensed State land Surveyor or a registered professional land Surveyor as authorized by the State statutes to practice the profession of surveying in Texas.

*Thoroughfare:* Same as Street.

*Tract:* Same as Lot.

*Transportation Plan:* The master Street development and Thoroughfare plan for the City.

*Utility:* City and/or franchised Utility company above or below ground equipment and lines including, but not limited to, water, wastewater (sewer), gas, electricity, telephone, and cable television.

*Zoning:* Regulations governing the use of land and buildings and development standards as set forth in Chapters 4-7, 4-9, and 4-10.

**Secs. 4-6-3 to 4-6-5. Reserved.**

SECTION 3. The Amarillo Municipal Code, Chapter 4-6, Article II, is repealed.

SECTION 4. The Amarillo Municipal Code, Chapter 4-6, Article II, is hereby adopted and re-enacted to now read as follows:

**ARTICLE II—PLATTING AND SUBDIVIDING**

**DIVISION 1. GENERAL.**

**Section 4-6-6. Types of Plans or Plats Required.**

- a) Preliminary Plan. A Preliminary Plan shall be required when Public Improvements are necessary when developing the property.
- b) Plats. A Final Plat or Minor Plat must be approved prior to any non-exempt land division.

**Section 4-6-7. Exemptions.**

The following land divisions are exempt from the requirements of this Article that apply to plats:

- a) Use of existing or expanding cemeteries complying with all State and local laws and regulations;
- b) A division of land created by order of a court of competent jurisdiction;
- c) The initial creation, by Plat, of a Lot from an unplatted tract which results in a single remainder tract, in which the remainder tract must be greater than five (5) acres in size; and
- d) The remainder tract must be under single ownership, front an existing, dedicated

street and require no Public Improvements.

#### **Section 4-6-8. Applications and Procedures.**

Where a conflict exists between the procedures listed in this Section and all other applicable City regulations, the procedures of this Section shall control.

- a) An application must be completed in its entirety in order to be accepted for review by the City of Amarillo. All applications shall be made on forms available from the City. To be complete, it must comply with all the procedures of this Section and any other Sections pertaining to the specific application.
- b) Required documentation for the initial application to be considered complete for each review process is listed on the application form provided by the City.
- c) A complete application must be submitted on the designated application deadline date. Application deadline dates can be obtained by contacting the City of Amarillo Planning Department.

#### **Section 4-6-9. Stages of Plan and Plat Approval.**

The Planning Director shall be the responsible Official for plans and plats and the Development Review Committee shall be the initial reviewing body for plans and plats. The Planning and Zoning Commission or Assistant City Manager of Development Services shall not approve a plat until such time as all delinquent and current taxes and liens in favor of the City have been paid on the land being subdivided. The general types of plans and stages of approval are:

- a) Preliminary Plan approval, when required (refer to Article I, Division II, below);
- b) Final Plat approval (refer to Article I, Division IV, below);
- c) Minor Plat approval (refer to Article I, Division V, below); and
- d) Revisions to Recorded Plat approval (refer to Article I, Division VI, below).

**Section 4-6-10. Completeness Review.**

- a) *Determination of Completeness.* Every required application shall be subject to a determination of completeness by the Officer responsible for processing the application.
  - 1) No required application shall be accepted for processing unless it is accompanied by all documents, fee, and information required by the specific application.
  - 2) Once the application is accepted for processing, a determination of completeness shall be made by the responsible Official no later than two (2) business days (excluding holidays or inclement weather whereby the City is closed for business) after the official filing date that the required application is submitted to the responsible Official and the applicant shall be sent notification of the determination within the same two (2) business days time frame.
    - a. If the required application is determined to be incomplete, the notification shall specify the documents or other information necessary to complete the application and shall state the date the application will expire (see Subsection (c), below) if the

documents or other information are not provided.

b. If the required application is determined to be complete, the application shall be processed as prescribed in this Chapter.

3) A determination of completeness shall not constitute an approval or determination of compliance with the substantive requirements of this Chapter.

b) *Re-Submittal After Notification of Incompleteness.* If the required application is timely re-submitted or supplemented after a notification of incompleteness, the application shall be processed upon receipt of the re-submittal or supplementation. No additional determination of completeness shall be made thereafter; however, to the extent that the information or documents submitted is not sufficient to enable the Officer to apply the criteria for approval, the application may be forwarded to the Planning and Zoning Commission and may be denied on such grounds.

c) *Expiration of Application.*

1) The required application shall expire on the fifteenth (15<sup>th</sup>) day after the date the application is received if the applicant fails to timely provide supplemental documents or other information necessary to comply with the City's requirements relating to the required application; or

2) An expired application will be returned to the applicant.

#### **Section 4-6-11. Time for Decision of Plat.**

a) All Plat applications shall be acted on within thirty (30) days from the Official Filing Date unless a waiver is submitted in accordance with this Section.

b) Waiver of Right to 30-day Action (“Waiver”):

- 1) The Planning Director shall be the responsible Official and the initial decision-maker for a Waiver.
- 2) An applicant may request in writing a Waiver in relation to the decision time for plats of thirty (30) days mandated by State law.
- 3) Waiver requests must be received by the Planning Director the Friday prior to the Planning and Zoning Commission meeting at which action would have been taken on the plat application. Waiver requests that are not received by that day shall not be considered and action shall be taken on the plat application at such meeting scheduled.
- 4) The Planning Director shall take action on the Waiver request within the thirty-day (30-day) period for acting on the plat.
- 5) The granting of a Waiver request shall only extend time and shall not be a waiver to any requirements within this Chapter. A waiver from requirements herein is a separate and distinct process.
- 6) With a Waiver, the time for approval may be extended by thirty (30) days but in no case shall the 30-day waiver exceed more than sixty (60) days.

**Secs. 4-6-12 to 4-6-15. Reserved.**

DIVISION 2. PRELIMINARY PLAN.

**Section 4-6-16. Purpose, Exceptions, and Effect.**

- a) *Purpose.* The purpose of a Preliminary Plan shall be to determine the general

layout of the Subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable requirements of this Chapter.

- b) *Exceptions.* A Preliminary Plan is not required when a Minor Plat is submitted (Chapter 4-6, Article I, Division V).
- c) *Effect.* Approval of a Preliminary Plan shall authorize the Developer to submit applicable Construction Plans for approval by the responsible Officer under Article I, Division VII of this Chapter and, upon approval of such plans, to construct Public Improvements to serve the Subdivision in accordance therewith. If such Public Improvements are not constructed prior to Final Plat, the Developer must provide adequate Security, as provided in Section 4-6-58.
- d) Multi-unit, residential Subdivisions that are more than 50% platted upon the effective date of this ordinance are not required to submit a Preliminary Plan for the remainder of the Subdivision; however, submission is recommended. The amount of property previously platted will be determined on the acreage platted from the original parent tract under common ownership (up to a full section of property).

#### **Section 4-6-17. Application and Procedures.**

- a) *Pre-Application Conference.* Prior to a Preliminary Plan submittal, the Developer or his authorized agent is encouraged to meet with the Planning Director who will determine if a Preliminary Plan is required. Should Preliminary Plan approval be required, the relationship of the proposed subdivision to the City's

Comprehensive Plan, Storm Water Management Criteria Manual, Zoning Ordinance, Street requirements, Utility service, and the general character of the development may be discussed to acquaint the Developer with City platting requirements and procedures.

- b) *Responsible Official and Initial Review.* The Planning Director shall be the responsible Official for a Preliminary Plan and the Development Review Committee shall be the initial reviewing body for a Preliminary Plan.
- c) *Fees.* The Developer shall pay a non-refundable application fee of \$350.00 for the first acre and an additional \$10 per acre per additional acre for each Preliminary Plan submitted.
- d) *Application Content.* Applications for a Preliminary Plan shall be submitted on a form supplied by the City of Amarillo with the required information as stated on the application form. When more than one sheet is necessary to accommodate the entire Plan area, an index sheet at appropriate scale showing the entire area shall be attached. The date the Plan was submitted shall legibly appear on the Plan.
- e) *Accessories.* An application for a Preliminary Plan may be accompanied by:
  - 1) an Application for Zoning approval; and/or.
  - 2) Construction Plans.

However, approval of each shall be separate and in accordance with this Division and with Division 7 of this Chapter.

- f) *Development Review Committee.* The Development Review Committee shall, at

each meeting, review each pending Preliminary Plan application.

The Committee shall make comments and recommend to the Planning Director either:

- 1) Approval of the Preliminary Plan,
- 2) Denial of the Preliminary Plan, or
- 3) Approval of the Preliminary Plan with specific conditions.

Necessary revisions and comments shall be forwarded to all individuals listed on the application.

- g) *Re-Submittal Following Development Review Committee Review.* The Developer shall provide the Planning Director two (2) reproducible copies of the Preliminary Plan with revisions addressed and resolved.

The Planning Director shall then review the Preliminary Plan for compliance with the Development Review Committee recommendations.

**Section 4-6-18. Action.**

- a) *Review and Determination.* The Planning Director and Development Review Committee shall review the physical arrangement of the Subdivision, and determine the adequacy of Streets and Thoroughfare Rights-of-Way and alignment that comply with the Amarillo Functional Classification Transportation Plan, the existing Street patterns in the area, and with other applicable provisions of the Comprehensive Plan. The Planning Director shall also determine the adequacy of Easements and Rights-of-Way and compliance of the drainage system with the Storm Water

Management Criteria Manual. The Planning Director shall also ascertain that adequate Easements for proposed or future Utility service are provided, and that the lot size and area are adequate to comply with the minimum requirements for the type of sanitary sewage disposal proposed. Where connection to an approved on-site sanitary sewage collection and treatment system is proposed, all lots and Building sites shall contain a minimum area sufficient to meet the requirements of the Director of Environmental Health, who may also certify the lots as being adequate for septic tank operation after tests of the soil. The Planning Director shall also review findings of the Development Review Committee and findings of the staff report regarding compliance with Development Review Committee recommendations. From all such information, the Planning Director shall determine whether the Preliminary Plan meets the standards of the Chapter.

b) *Approval or Denial.* The Planning Director shall decide whether to approve or deny the Preliminary Plan application and shall give notice to the Developer in the following manner:

- 1) *Approved.* If approved, the Planning Director shall affix his signature to the Preliminary Plan and attach thereto a notation that it has received approval by the Planning Director. One (1) copy shall be returned to the Developer and one (1) identical copy shall be retained on file by the City of Amarillo's Planning Department.
- 2) *Approved with conditions.* If approved with conditions, the Planning Director shall provide such conditions in writing to the Developer.

3) *Denied.* If denied, the Planning Director shall attach to the Preliminary Plan a statement of the reasons for such action and return it to the Developer.

c) *Appeal.* If denied, the Developer may submit written appeal to the Planning and Zoning Commission within ten (10) calendar days after the date of the Planning Director's decision. The written request shall be forwarded to the Planning and Zoning Commission for consideration at its next scheduled meeting. The Planning and Zoning Commission shall either:

- 1) Approve the Preliminary Plan,
- 2) Approve the Preliminary Plan with specific conditions, or
- 3) Deny the Preliminary Plan.

The reason for any action taken by the Planning and Zoning Commission, whether approved, denied, or approved with conditions, shall be entered in the minutes.

If approved, the Planning and Zoning chairman shall affix his signature to the Preliminary Plan and attach thereto a notation that it has received approval.

One (1) copy shall be returned to the Developer and one (1) identical copy shall be retained by the City of Amarillo's Planning Department.

#### **Section 4-6-19. Criteria for Approval.**

The following criteria shall be used by each reviewing officer and committee to determine whether the application for a Preliminary Plan shall be approved, approved with conditions, or denied:

- a) The proposed provision and configuration of roads, alleys, water, wastewater, and drainage conform to the City's adopted master plans for those facilities, including without limitation water facilities, wastewater facilities, transportation, drainage, and any other municipal plans;
- b) The proposed provision and configuration of roads, alleys, water, wastewater, drainage, easements, and rights-of-way are adequate to serve the subdivision and meet applicable standards of the Chapter;
- c) All contiguous property under common ownership within the section is included in the Preliminary Plan. This information aids the Planning Director in taking action on the Plan and may be used to determine whether development of the property as a whole complies with this Chapter. Based upon such information the Planning Director may require additional or less property be included in the Plan in order to satisfy the standards applicable of this Chapter;
- d) The plan has been duly reviewed by applicable City staff and franchise utility companies, including the Planning Director and the Development Review Committee;
- e) The plan conforms to design requirements and construction standards as set for in this Chapter;
- f) If the proposed Preliminary Plan is intended to be a phased development, each phase shall be able to meet all applicable development related City standards and requirements; and

- g) The plan is consistent with the adopted Comprehensive Plan, except where application of the plan conflicts with State law.

**Section 4-6-20. Effect of Approval of a Preliminary Plan.**

- a) *Right to Proceed.* The approval of the Preliminary Plan application shall allow the Developer to proceed with the development and platting process by submitting zoning applications, Construction Plans, and a Final Plat.
- b) *Installation of Public Improvements.*
  - 1) Approval of the Preliminary Plan shall be deemed an approval of the layout illustrated on the Preliminary Plan as a guide to the installation of streets, alleys, water, sewer, utilities, and other improvements that are planned or required within the proposed Subdivision.
  - 2) Approval of the Preliminary Plan shall not constitute approval of a Final Plat or Construction Plans for a proposed Subdivision, nor shall approval of the Preliminary Plan be construed to mean acceptance by the public of a proposed dedication of any roads, alleys, utilities, drainage ways, or other such land and improvements.
  - 3) Construction of all Public Improvements shall be based upon approved Construction Plans, and shall occur either:
    - a. Prior to Final Plat approval, or
    - b. Following Final Plat approval and recordation, upon approval of a Subdivision Improvement Agreement, and upon submittal of Security in lieu of completing construction, in accordance with Division VII of this

Article.

**Section 4-6-21. Expiration and Extension.**

a) The approval of a Preliminary Plan application shall remain in effect for a period of two (2) years from the date of approval, during which period the Developer shall submit and receive approval for Construction Plans and a Final Plat for the land subject to the Preliminary Plan. If approved Construction Plans and a Final Plat application have not been approved within the two (2) year period, the Developer may submit a written request to the Planning Director to extend the Preliminary Plan application for a period of one (1) year. If an extension is not requested or granted, the Preliminary Plan shall expire. Construction codes in effect at the time of a Preliminary Plan's approval shall be used and relied upon for approval of a Final Plat and Construction Plans.

b) Once a Preliminary Plan, Construction Plan and Final Plat have been approved, the Preliminary Plan will remain in effect unless a period of two (2) years occurs where no permitting activity occurs or construction activity on public improvements identified in the approved Construction Plans.

The Developer may submit a written request to the Planning Director to extend the Preliminary Plan for a period of one (1) year. If an extension is not requested or granted, the Preliminary Plan shall expire.

c) If a Subdivision and the Final Plat thereof is approved by the Planning and Zoning Commission or Assistant City Manager of Development Services in units, each Final Plat of each unit will carry the name of the entire Subdivision and will bear a distinguishing letter, number, or subtitle. Block numbers shall run

consecutively throughout the entire Subdivision, even though such Subdivision may be finally approved in units.

**Section 4-6-22. Revisions Following Approval of Preliminary Plan.**

- a) *Minor Changes.* Minor changes in the design of the Subdivision subject to a Preliminary Plan may be incorporated in an application for approval of a Final Plat without the necessity of filing a new application for approval of a Preliminary Plan.

Minor changes shall include minor adjustments in street or alley alignments, lengths, and paving details, and adjustment of lot lines that do not result in the creation of additional lots over 10% of the original number of lots shown on the original plat, provided that such changes are consistent with provisions in this Chapter.

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

Approval of major revisions to an approved Preliminary Plan shall occur in the same manner prior to the date the Preliminary Plan would have expired.

- c) *Determination.* The Planning Director shall determine whether changes are deemed to be minor or shall require submittal of a new Preliminary Plan.

**Secs. 4-6-23 to 4-6-25. Reserved.**

DIVISION 3. VESTED RIGHTS.

**Section 4-6-26 Purpose; State law.**

Vested rights provide an opportunity for persons to “freeze” or “vest” governmental regulations. By this section the City recognizes and commits to protect all vested rights as created by Texas Local Government Code, Chapter 245 and other applicable law (as amended), upon the City receiving all information necessary to determine whether vested rights are present or not. Per Chapter 245, as amended, vested rights apply only to projects in progress on or commenced after September 1, 1997. All procedures, requirements, exemptions and other provisions of state law are adopted as City policy.

**Sections 4-6-27 --- 4-6-29. Reserved.**

DIVISION 4. FINAL PLAT.

**Section 4-6-30. Purpose, Applicability, and Effect.**

- a) *Purpose.* The purpose of a Final Plat is to ensure that the Subdivision of land subject to the plat is consistent with all standards of development pertaining to the adequacy of public facilities, that Public Improvements to serve the Subdivision or development have been installed and accepted by the City or that provisions for such installation has been made, that all other requirements and conditions have been satisfied or provided for, to allow the plat to be approved and recorded, and to ensure that the Subdivision meets all other standards of development to enable initiation of site preparation activities for any lot or tract subject to the Final Plat.
- b) *Applicability.* Construction of Public Improvements may occur prior to Final Plat

approval if requirements in Division VII of this Article are met.

- c) *Effect.* Approval of a Final Plat authorizes the Developer to install improvements in public rights-of-way or easements with approved Construction Plans and to seek a building permit. Approval also authorizes the Planning Director to record the Final Plat.

#### **Section 4-6-31. Application and Procedures.**

- a) *Responsible Officer.* The Planning Director shall be the responsible Officer for a Final Plat and the Development Review Committee shall be the initial reviewing body for the Final Plat.
- b) *Fees.* The Developer shall pay a non-refundable application fee of \$350.00 for the first acre and an additional \$10.00 per additional acre for each Final Plat submitted.
- c) *Application Deadline.* Final Plat applications shall be submitted in accordance with submittal deadlines approved by the Amarillo Planning and Zoning Commission. A schedule of such dates is available at the City of Amarillo Planning Department.
- d) *Prior Approved Preliminary Plan.* The Final Plat and all accompanying data shall substantially conform to the active Preliminary Plan, if any, as approved by the Planning Director, incorporating all modifications and conditions imposed or required by the Planning Director or Planning and Zoning Commission.
- e) *Application Contents.* All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the

application form. The Developer may submit a Final Plat only a portion of an approved Preliminary Plan, which he proposes to record and develop at the time, provided such portion conforms to all requirements of this Chapter.

f) *Development Review Committee.* The Development Review Committee shall, at each meeting, review each Final Plat application to be placed on the agenda of the forthcoming Planning and Zoning Commission meeting. The Committee shall recommend either:

1. Approval of the Final Plat,
2. Denial of the Final Plat, or
3. Approval of the Final Plat subject to corrections or alterations required prior to consideration by the Planning and Zoning Commission.

When recommending approval, the Development Review Committee must make only a finding that the Final Plat meets all standards of this Chapter, although the Development Review Committee may make such additional findings as it deems appropriate. When recommending either denial or approval with conditions, the Development Review Committee shall make specific findings for the reasons for denial or the imposition of conditions and shall cite the standards in this Chapter which would be violated if the Final Plat were approved unconditionally.

In any case, such comments shall be submitted to all parties listed on the Final Plat application.

g) *Re-Submittal Following Development Review Committee Review.* At least two business days (2) prior to the Planning and Zoning Commission meeting during

which the Final Plat is scheduled for review, the Developer shall provide the Planning Director two (2) Mylars and one (1) Photo Mechanical Transfer (PMT) of the Final Plat, with revisions made based on Development Review Committee comments and recommendations. The Planning Director shall then review the Final Plat for compliance with Development Review Committee recommendations.

**Section 4-6-32. Action.**

- a) Review and Determination. The Planning and Zoning Commission shall review all Final Plat applications, findings of the Development Review Committee, findings of the Planning Director regarding compliance with Development Review Committee recommendations, and any other information available.

From all such information, the Commission shall determine whether the Final Plat as shown on the application meets the standards of this Chapter.

- b) Approval or Denial. The Planning and Zoning Commission shall decide whether to approve, approve with conditions, or deny the Final Plat application. If the Planning and Zoning Commission finds the Final Plat meets all standards set forth in this Chapter and recommends Final Plat approval, the action of the Commission shall be noted on two (2) Mylar copies and one (1) PMT of the Final Plat, referenced and attached to any conditions determined.

One (1) Mylar copy shall be returned to the Developer and one (1) Mylar copy and one (1) PMT shall be filed of record at the appropriate county. The PMT shall be returned to City of Amarillo Planning Department and retained in the

Planning Department's files. If the Planning and Zoning Commission finds the Final Plat does not meet all standards and recommends either approval with conditions or denial, the documents shall be returned to the Developer for necessary revisions. The reasons for any action taken by the Commission, whether a Final Plat is approved, approved with conditions, or denied, shall be entered in the minutes of the Planning and Zoning Commission.

In any case in which a Final Plat is submitted and is deemed complete, but is not reviewed by the Development Review Committee because it must be placed on the Planning and Zoning Commission agenda due to the State law mandated 30-day timeframe for action on plats and no Waiver of Right for 30-day Action is submitted by the Developer, the Final Plat shall be subject to denial by the Planning and Zoning Commission.

- c) If no action is taken by the Planning and Zoning Commission within thirty (30) days after the Official Filing Date, the Final Plat shall be deemed approved. A certificate showing the Official Filing Date, and failure to take action thereon within thirty (30) days of the Official Filing Date, shall, on demand by the Developer, be issued by the Planning and Zoning Commission, and this certificate shall be placed on the original copy of the Final Plat and shall be sufficient in lieu of a written endorsement or other evidence of approval. The Final Plat shall then be caused to be filed of record by the Planning Director with the appropriate County Clerk.

#### **Section 4-6-33. Criteria for Approval.**

The following criteria shall be used to determine whether the application for a

Final Plat shall be approved, approved with conditions, or denied:

a) *Prior Approved Preliminary Plan:*

- 1) The Final Plat conforms to the active Preliminary Plan, if any, except for minor changes authorized under Division 2 of this Article and that may be approved without the necessity of revising the approved Preliminary Plan;
- 2) All conditions imposed at the time of the Preliminary Plan, as applicable, have been satisfied;
- 3) Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the City Engineer;
- 4) Where the City Engineer has authorized Public Improvements to be deferred, the Subdivision Improvement Agreement and Security have been executed and submitted by the property owner in conformity with Division VII of this Article;
- 5) The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Chapter;
- 6) The Final Plat meets any applicable county standards to be applied under an interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county;
- 7) The plat conforms to design requirements and construction standards as set forth in this Chapter;

- 8) The plat is consistent with the zoning of the property; and
- 9) The plat conforms to the subdivision application checklist.

b) *No Prior Approved Preliminary Plan:*

- 1) The Final Plat conforms to all criteria for approval of a Preliminary Plan;
- 2) The approved Construction Plans conform to the requirements of this Chapter;
- 3) Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the City Engineer;
- 4) Where the City Engineer has authorized Public Improvements to be deferred, the Subdivision Improvement Agreement and Security for installation of public improvements have been prepared and executed by the property owner in conformity with Division VII of this Article I;
- 5) The Final Plat meets any applicable county standards to be applied under an interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county;
- 6) The proposed plat is consistent with the zoning of the property; and
- 7) The Final Plat conforms to the application checklist.

**Section 4-6-34. Plat Recordation.**

After approval of the Final Plat, the Planning Director shall procure the signatures

of the chairperson of the Planning and Zoning Commission on the plat. The Planning Director shall cause the Final Plat to be recorded with the appropriate County Clerk upon receiving the Planning and Zoning chairperson signature.

**Section 4-6-35. Revisions to Final Plat.**

No changes, erasures, modifications or revisions shall be made on any Plat of a Subdivision after approval has been given and endorsed in writing on the plat by the Planning and Zoning Commission.

**Secs. 4-6-36 to 4-6-39. Reserved.**

DIVISION 5. MINOR PLATS.

**Section 4-6-40. Purpose, Applicability, and Effect.**

- a) *Purpose.* The purpose of a Minor Plat is to simplify divisions of land under certain circumstances outlined in State law.
- b) *Applicability.* An application for approval of a Minor Plat may be filed only in accordance with State law, when all the following circumstances apply:
  - 1. The proposed division results in four (4) or fewer lots,
  - 2. The plat does not require extension of any municipal facilities to serve any lot within the Subdivision, and

3. All lots in the proposed subdivision front onto an existing street and the construction or extension of a street or alley is not required to meet the requirements of this Chapter, however, right-of-way widening and easements shall be permitted as part of a Minor Plat.
- c) *Effect.* Approval of a Minor Plat authorizes the Developer to submit an application for a building permit for any lot in the Subdivision.

**Section 4-6-41. Application and Procedures.**

- a) *Responsible Officer.* The Planning Director shall be the responsible Official for a Minor Plat and the Development Review Committee shall be the reviewing body for a Minor Plat.
- b) *Fees.* The Developer shall pay a non-refundable application fee of \$350.00 for the first acre and an additional \$10.00 per additional acre for each Minor Plat submitted.
- c) *Application Deadline.* Minor Plat applications shall be submitted in accordance with submittal deadlines approved by the Amarillo Planning and Zoning Commission. A schedule of such dates is available at the City of Amarillo Planning Department.
- d) *Pre-Application Conference.* Prior to filing a Minor Plat application, the Developer(s) may request a Pre-Application Conference with the Planning Director and any other pertinent City Official(s). Such conference is optional.
- e) *Application Contents.* All applications shall be submitted on a form supplied by the City of Amarillo's Planning Department with the required information as

stated on the application form.

- f) *Development Review Committee.* The Development Review Committee shall, at each meeting, review each Minor Plat application to be placed on the agenda of the forthcoming Planning and Zoning Commission meeting. The Committee shall recommend either:
1. Approval of the Final Plat,
  2. Denial of the Final Plat, or
  3. Approval of the Final Plat subject to corrections or alterations required prior to consideration.

When recommending approval, the Development Review Committee must make only a finding that the Minor Plat meets all standards of this Chapter, although the Development Review Committee may make such additional findings as it deems appropriate. When recommending denial or approval with conditions, the Development Review Committee shall make specific findings for the reasons for denial or the imposition of conditions and shall cite the standards in this Chapter which would be violated if the Minor Plat were approved unconditionally. In any case, such comments shall be submitted to all parties listed on the Minor Plat application.

(g) *Re-Submittal Following Development Review Committee Review.* At least two business days (2) prior to the Planning and Zoning Commission meeting during which the Minor Plat is scheduled for review, the Developer shall provide the Planning Director two (2) Mylars and one (1) PMT of the Minor Plat, with revisions made based on Development Review Committee comments and

recommendations. The Planning Director shall then review the Minor Plat for compliance with Development Review Committee recommendations.

**Section 4-6-42. Action.**

- a) *Final Approval.* The Assistant City Manager of Development Services shall approve the Minor Plat application or refer it to the Planning and Zoning Commission for consideration.
- b) *Administrative Denial.* In any case in which a Minor Plat is submitted and is deemed complete, but is not reviewed by the Development Review Committee because it must be acted on by the Assistant City Manager of Development Services due to the State law mandated 30-day timeframe for action on plats and no Waiver of Right for 30-Day Action is submitted by the Developer, the Minor Plat shall be subject to denial by the Assistant City Manger of Development Services.
- c) *Deemed Approved.* If the Minor Plat is approved by the Assistant City Manager of Development Services, then no approval by the Planning and Zoning Commission is needed. If the Assistant City Manager of Development Services fails to act on a Minor Plat application, the Planning and Zoning Commission shall act on such plat within thirty (30) days. If no action is taken within thirty (30) days, the Minor Plat application shall be deemed approved.

**Section 4-6-43. Criteria for Approval.**

The Assistant City Manager of Development Services and the Planning and Zoning Commission, as appropriate, shall decide whether to approve, conditionally approve or deny a Minor Plat application based on the following criteria:

- a) The Minor Plat is consistent with all zoning requirements for the property;
- b) The final layout of the Subdivision or development meets standards in this Chapter;
- c) All lots to be created by the plat already are adequately served by all required City utilities and services;
- d) The ownership, maintenance, and allowed uses of all designated easements have been stated on the Minor Plat;
- e) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision; and
- f) The plat conforms to the Subdivision checklist.

**Section 4-6-44. Plat Recordation.**

After approval of the Minor Plat, the Planning Director shall procure the signatures of the Assistant City Manager of Development Services or Planning and Zoning chairperson on the plat. The Planning Director shall then cause the Minor Plat to be recorded with the appropriate County Clerk.

**Sec. 4-6-45 to 4-6-47. Reserved.**

DIVISION 6. REVISIONS TO RECORDED PLATS.

**Section 4-6-48 General Requirements for Plat Revisions**

- a) *Applicability.* Except as expressly stated otherwise in this Division, any change to a recorded plat shall require approval by the Planning and Zoning Commission. The application and procedures for approval of such changes to a

recorded plat shall be in accordance with the application and procedures for a Final Plat application under Division IV of this Article.

- b) *Construction Management.* If a replat requires construction of Public Improvements, the provisions of Division VII of this Article shall apply.

#### **Section 4-6-49. Replats without Vacation.**

- a) *Applicability.* A replat of all or a portion of a recorded plat may be approved in accordance with State law without vacation of the recorded plat, if:
- 1) The replat is signed and acknowledged by the owners of the property being replatted, and
  - 2) The replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.
- b) *Notice and Hearing.* Notice of the public hearing on a residential replat application shall be given in accordance with State law. The hearing shall be conducted by the Planning and Zoning Commission.
- c) *Application Contents.* Applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form.
- d) *Fees.* The Developer shall pay a non-refundable application fee of \$350.00 for the first acre and an additional \$10.00 per additional acre for each Replat Plat submitted.
- e) *Partial Replat Application.* Any replat which adds or reduces lots must include the original Subdivision and lot boundaries. If a replat is submitted for any portion of a previously platted subdivision, the replat must reference the previous

subdivision name and recording information, and must state on the replat the specific lots which have been changed.

- f) *Criteria for approval.* The replat of the subdivision shall meet all review and approval criteria for a Final Plat.
- g) *Effect.* Upon approval, the replat shall be recorded with the appropriate County Clerk and is controlling over the previously recorded plat for the portion replatted.

#### **Section 4-6-50. Special Replat Requirements.**

- a) *Applicability.* In addition to compliance with the requirements of Section 4-6-49 above, a replat without vacation of the preceding plat, in accordance with State law, must conform to the requirements of this Section if:
  - 1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot, or
  - 2) During the preceding five (5) years, any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
- b) *Exception.* The requirements of this Section shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single or duplex-family residential uses.
- c) *Notice of Hearing.* Notice of the public hearing on the replat application shall be given in accordance with State law. Notice shall be accompanied by a copy of the language of subsection (d) below. The hearing shall be conducted by the

Planning and Zoning Commission in accordance with State law.

- d) *Protest.* If the replat application is accompanied by a waiver petition and is protested in accordance with this Subsection, approval of the replat shall require the affirmative vote of at least three-fourths of the members of the Planning and Zoning Commission present at the meeting. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the replat application and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the Commission prior to the close of the public hearing. In computing the percentage of land area under this section, the area of streets and alleys shall be included.

#### **Section 4-6-51. Amending Plats.**

- a) *Purpose.* The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to the recorded plat consistent with provisions of State law.
- b) *Applicability.* The procedures for amending plats shall apply only if the sole purpose of the amending plat is to achieve the following:
- 1) Correct an error in a course or distance shown on the preceding plat;
  - 2) Add a course or distance that was omitted on the preceding plat;
  - 3) Correct an error in a real property description shown on the preceding plat;
  - 4) Indicate monuments set after the death, disability, or retirement from practice of the Engineer or Surveyor responsible for setting monuments;

- 5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- 6) 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;
- 7) Correct an error in courses and distances of lot lines between two adjacent lots if:
  - a. Both lot owners join in the application for amending the plat;
  - b. Neither lot is abolished; and
  - c. The amendment does not attempt to remove recorded covenants or restrictions.
- 8) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- 9) Relocate one or more lot lines between one or more adjacent lots if:
  - a. The owners of all those lots join in the application for amending the plat;
  - b. The amendment does not attempt to remove recorded covenants or restrictions; and
  - c. The amendment does not increase the number of lots,
- 10) Make necessary changes to the preceding plat to create four (4) or

fewer lots in the Subdivision or a part of the Subdivision covered by the preceding plat if:

- a. The changes do not affect applicable zoning and other regulations of the municipality;
- b. The changes do not attempt to amend or remove any covenants or restrictions; and
- c. The area covered by the changes is located in an area that the City Council planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area, or

11) Replat one or more lots fronting on an existing street if:

- a. The owners of all those lots join in the application for amending the plat;
- b. The amendment does not attempt to remove recorded covenants or restrictions;
- c. The amendment does not increase the number of lots; and
- d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

c) *Effect.* Upon approval by the Assistant City Manager of Development Services, an amending plat shall be recorded with the appropriate County Clerk and is controlling over the recorded plat without vacation of that plat.

d) *Application Contents.* All applications shall be submitted on a form supplied by the City with the required information as stated on the application form.

- e) Fees. The Developer shall pay a non-refundable application fee of \$350.00 for the first acre and an additional \$10.00 per additional acre for each Amending Plat submitted.
- f) *Criteria for Approval.* The Assistant City Manager of Development Services shall decide whether to approve or refer the Amending Plat application to the Planning and Zoning Commission for consideration based on a finding that the amending plat makes only those changes to the recorded plat that are allowed under Subsection (b) above.
- g) *Decision.* The Assistant City Manager of Development Services shall either approve the Amending Plat application or refer it to the Planning and Zoning Commission for consideration. The Assistant City Manager of Development Services shall not approve variances.
- h) *Recordation.* After approval of the Amending Plat, the Planning Director shall procure the signatures of the Assistant City Manager of Development Services or Planning and Zoning chairperson on the plat. The Planning Director shall then cause the Amending Plat to be recorded with the appropriate County Clerk.

#### **Section 4-6-52. Plat Vacation.**

- a) *Applicability.* A plat vacation application must be approved by the Planning and Zoning Commission prior to vacation of any recorded plat or portion thereof. A plat may be vacated only in conjunction with approval of a new plat application and in accordance with State law.
- b) *Application.* If no lot subject to the recorded plat has been sold, the property owner may apply for a plat vacation. If any lot in the subdivision has been sold,

the recorded plat or any portion thereof may be vacated only upon application of all lot owners in the subdivision. A plat vacation application shall be accompanied by an application for a Preliminary Plan or Final Plat for the land subject to the recorded plat or portion thereof to be vacated, prepared in accordance with this Article. A plat vacation application also shall be accompanied by an unconditional Waiver of Right to 30-Day action (on the State law timeline for general approval of plats) for the plat vacation application, pending approval of a new Final Plat application for the same land.

c) *Fees.* The Developer shall pay a non-refundable application fee of \$350.00 for the first acre and an additional \$10.00 per additional acre for each Plat Vacation submitted.

d) *Processing and Decision.* The plat vacation application shall be decided by the Planning and Zoning Commission in conjunction with its decision on a new plat application for the same land. The application for plat vacation shall be processed together with the new plat application in accordance with the procedures applicable to the new plat application under this Article. If the new plat application is for a Preliminary Plan, decision on the plat vacation application shall be deferred or conditioned on approval of a Final Plat application for the land subject to the recorded plat or portion thereof to be vacated. The Commission shall decide the plat vacation application after it decides the Final Plat application.

e) *Criteria.* The Planning and Zoning Commission shall approve the plat vacation application upon approving the Final Plat application for the same land, and shall

deny the plat vacation application upon denial of such Final Plat application.

The Final Plat application, as well as any preceding Preliminary Plat application, shall be decided in accordance with the criteria applicable to such applications under this Chapter.

- f) *Effective Date of Plat Vacation.* The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat. On the execution and recording of the vacating instrument, the vacated plat shall have no further effect.

**Secs.4-6-53 to 4-6-55 Reserved.**

DIVISION 7. CONSTRUCTION MANAGEMENT.

**Section 4-6-56. Construction Plans.**

- a) *Purpose.* The purpose of Construction Plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this Chapter and other City Ordinances.
- b) *Application Contents.* All applications shall be submitted on a form supplied by the Engineering Department with the required information as stated on the application form.
- c) *Responsible Official and Decision*
  - 1) The City Engineer shall be the responsible official for approval of storm water plans, drainage reports, and paving plans;
  - 2) The Director of Utilities shall be the responsible official for approval of

water and wastewater plans;

- 3) For Construction Plans submitted following approval of a Preliminary Plan, the City Engineer and Director of Utilities shall approve, approve subject to modifications, or reject the Construction Plans. Incomplete plans shall be returned to the Developer;
  - 4) If Construction Plans are approved, the plans shall be marked “approved” and one (1) set shall be returned to the Developer, and at least two (2) sets shall be retained in the City’s files;
  - 5) Once the Construction Plans are approved, the Developer shall provide additional sets of the approved plans to the City, as specified by the City Engineer, for use during construction. A full set of the City-approved and stamped Construction Plans must be available for inspection on the job site at all times.
- d) *Notification.* The City Engineer shall notify the Developer that the Construction Plans are approved.
- e) *Revised Plan Submittal.* If the conditions of approval require revision(s) to the Construction Plans, one (1) set shall be marked with objections noted (on the plans themselves and/or in memo format) and returned to the Developer for correction. The Developer’s Engineer shall correct the plans as requested and resubmit them for consideration.
- f) *Criteria for Approval.* The City Engineer shall render a decision on the Construction Plans in accordance with the following criteria:
- 1) The plans are consistent with the approved Preliminary Plan, or the

proposed Final Plat;

- 2) The plans conform to the development standards, and standards for adequate public facilities contained in this Chapter and other City Ordinances; and
  - 3) The plans conform to the specifications contained in the City of Amarillo's Standard Specifications for Construction.
- g) *Approval Required.* Construction Plans must be approved in accordance with this Section prior to approval of the Final Plat.
- h) *Effect.* Approval of Construction Plans authorizes the property owner to install public improvements in rights-of-way offered for dedication to the public under an approved Preliminary Plan or Final Plat.

**Section 4-6-57. Timing of Public Improvements.**

- a) Completion Prior to Final Plat. Except as provided below, after approval of a Preliminary Plan and before a Final Plat is approved, the installation of all public improvements that are the responsibility of the developer and required to serve the subdivision, as defined by Article II of this Chapter, whether to be located off-site or on-site, including water, wastewater, drainage, roadway and alley improvements, shall be finally complete in accordance with the approved Construction Plans. The installation of improvements required for proper drainage and prevention of soil erosion on individual residential lots, and improvements on any common areas, also shall be finally completed prior to Final Plat approval in accordance with the approved Construction

Plans, except as provided below.

b) Installation after Final Plat Approval. The City Engineer, upon written request of the Developer, may defer the obligation to install one or more public improvements to serve the subdivision until after Final Plat approval. The request shall be submitted with an application for Preliminary Plan or Construction Plan approval. Deferral of the obligation to install public improvements shall be conditioned on execution of sufficient surety to secure the obligations defined in the agreement or sureties as required in Section 4-6-58.

c) Off-Site Easements. All necessary off-site easements required to serve the subdivision or development shall be acquired by the Developer and conveyed to the appropriate public or private party. All necessary off-site easements shall be filed of record at the appropriate County Clerk prior to Final Plat submittal.

**Section 4-6-58. Security for Completion of Improvements.**

a) *Security.* Whenever the obligation to install public improvements to serve a subdivision or development is deferred until after Final Plat approval, the Developer shall guarantee proper construction of subdivision improvements, in accordance with standards contained or referred to in this Chapter and other City Ordinances, by one of the methods described below:

- 1) *Performance Bond.* A bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City of Amarillo, on the form provided by the City of Amarillo in an amount equal to the cost of improvements required by this Chapter and other City Ordinances. The performance bond shall be approved as a form by the

City Attorney.

- 2) *Trust Agreement.* A trust deposit in a bank or trust company for the benefit of the City of Amarillo, of a sum of money equal to the estimated cost of all improvements required by this Chapter and other City Ordinances. Selection of trustee shall be executed on the form provided by the City and approved as to form by the City Attorney.
  - 3) *Irrevocable Letter of Credit.* A letter, on a form provided by the City, signed by the principal officer of a local bank, Federally-insured savings and loan association, or other financial institution acceptable by the City of Amarillo, agreeing to pay the City of Amarillo on demand a stipulated sum of money to apply to the estimated cost of all improvements required by this Chapter and other City Ordinances. The guaranteed payment sum shall be the costs estimated by the Developer's professional engineer and approved by the City Engineer.
  - 4) *Deposit.* Cash, or certified check, deposited with and payable to the City in an amount equal to the total estimated construction costs of the required improvements.
- b) *Amount and Acceptability.* The security shall be issued in the amount of one hundred percent (100%) of the cost estimate approved by the City Engineer for all public improvements associated with the subdivision. Surety instruments provided must be issued by a financial entity located within 350 miles of the City of Amarillo. The security shall be subject to the approval of the City Attorney.
  - c) *Security in the Extraterritorial Jurisdiction.* Where the land to be platted lies

within the extraterritorial jurisdiction of the City of Amarillo, the security shall be in a form and contain such terms as are consistent with an interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county. In cases where the requirements governing the form and terms of the security are defined in such an agreement, they will supersede any conflicting provisions of Subsection (a), (b), and (c) above.

d) *Partial Release.* As portions of the public improvements are completed in accordance with the City of Amarillo regulations, and the approved public improvement plans, the developer may make application to the City Engineer to reduce the amount of the original letter of credit, bond or cash escrow. If the City Engineer is satisfied that such portion of the improvements has been completed in accordance with city policies, he may cause the amount of the letter of credit, bond or cash escrow to be reduced by such amount that he deems appropriate, so that the remaining amount of the letter of credit or bond or cash escrow adequately insures the completion of the remaining public improvements.

- 1) The Assistant City Manager of Development Services and other necessary City officials shall execute any documents necessary to cause release of any portion of the security in accordance with this provision, provided that all such documents shall be subject to approval by the City Attorney.
- 2) No partial release shall be granted where any substantial part of work

performed prior to the date of the application fails to meet City standards and specifications for any release other than incompleteness.

- e) *Warranty and Maintenance.* In addition to providing security as described in (a) above, the Developer or contractor shall also provide a warranty for the improvements for a period of one (1) year following acceptance by the City and shall provide a maintenance bond in the amount of one hundred percent (100%) of the costs of the improvements for such period.

#### **Section 4-6-59. Inspection and Acceptance of Public Improvements.**

- a) *Inspections.* The City Engineer and Director of Utilities shall inspect the construction of improvements while in progress and upon completion. Construction shall be in accordance with the approved Construction Plans. Any significant change in design required during construction shall be made by the Developer's Engineer in writing, and shall be subject to written approval by the City Engineer. If the City Engineer and Director of Utilities find upon inspection (prior to acceptance and dedication and within the surety or warranty period) that any of the required public improvements have not been constructed properly and in accordance with the approved Construction Plans, the Developer, or the party which the City has executed an agreement for the improvements with, shall be responsible for properly completing and/or correcting the public improvements.
- b) *Submission of Record Drawings.* The City shall not accept dedication of required public improvements until the contractor or the Developer's Engineer has provided to the City Engineer a detailed record drawing, when appropriate, or detailed information

that includes changes made by change order or field order, revised plans or other matters not originally specified, showing the location, dimensions, materials, and other information to establish that the public improvements have been built in accordance with the approved Construction Plans and to reflect actual construction.

*c) Acceptance or Rejection of Improvements.*

- 1) The Responsible Official shall be responsible for certifying acceptance of completed subdivision improvement intended for dedication to the City of Amarillo;
- 2) After final inspection, he shall notify the Developer and the Assistant City Manager of Development Services in writing as to his acceptance or rejection of such construction;
- 3) The City Engineer shall reject such construction only if it fails to comply with standards and specification of the City of Amarillo.

If the City Engineer rejects such construction, the City Attorney shall, on direction of the City Manager, proceed to enforce the guarantee provided by agreements called for in this section; and

- 4) If the City Engineer accepts such construction, the City shall execute all the necessary documents to release the full amount of security, including any retainage. The City Engineer shall issue a letter to the Developer stating that all required public improvements have been satisfactorily completed. Acceptance of the improvements shall mean that the Developer has transferred all rights to all the public improvements to the City for use and maintenance.

- d) *Disclaimer.* Approval of a Preliminary Plan or Final Plat shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this Division.
- e) *Acceptance of Improvements in the Extraterritorial Jurisdiction.* Where the facilities to be constructed under the Subdivision Improvement Agreement are located within the City's extraterritorial jurisdiction, and are to be dedicated to a county, the City Engineer shall inform the county that the public improvements have been constructed in accordance with approved Construction Plans, and are ready for acceptance by the county.

**Section 4-6-60. Maintenance and Warranty of Improvements.**

- a) **Maintenance During Construction.** The Developer and contractors shall maintain all required public improvements during construction of the development.
- b) **Bond.** The Developer shall covenant to warranty the required public improvements for a period of not less than one (1) year following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of one hundred percent (100%) of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

**Secs. 4-6-61 to 4-6-64. Reserved.**

DIVISION 8.

PROPORTIONALITY APPEAL: RELIEF FROM DEDICATION OR ALLOCATION OF CONSTRUCTION COST REQUIREMENTS.

**Section 4-6-65. Policy Established.**

- a) *Adequate Public Facilities Policy.* Land proposed for development in the City and in the City's Extraterritorial Jurisdiction must be served adequately by essential public facilities and services, including water, wastewater, roadway, and drainage facilities. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.
- b) *Responsibility of the Developer to Provide.* The Developer shall be responsible for the following to ensure that public facilities provided are adequate:
- 1) Phasing of development or improvements in order to ensure the provision of adequate public facilities;
  - 2) Extensions of public facilities and roadways (including any necessary on-site and off-site facilities) to connect to existing public facilities or roadways to the development;
  - 3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or off-site),
  - 4) Providing proof to the City of adequate public facilities;
  - 5) Making provisions for future expansion of the public facilities as needed to serve future developments, in coordination with the City's oversize participation regulations (i.e., when the City will provide for the cost of over-sizing facilities), if applicable;
  - 6) Providing for all operations and maintenance of the public facilities, or if the City is not the provider, providing proof that a separate entity will be

responsible for the operations and maintenance of the facilities;

- 7) Providing all fiscal security required for the construction of the public facilities;
- 8) Obtaining approvals from any applicable utility providers other than the City; and
- 9) Comply with all requirements of utility providers, including the City or other applicable providers.

c) *Responsibility of the Developer to Conform to Adopted Plans.* The Developer shall ensure that facilities provided are consistent with the City's adopted plans.

- 1) Proposed facilities serving new development shall conform to and be properly related to the public facility elements of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services, and applicable capital improvement plans, and shall meet the service levels specified in such plans.
- 2) The design and construction of all water and wastewater facilities to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities and with the City's technical specifications.

d) *Study Required.* If a Developer seeking approval of a Plat or Construction Plan for which an exaction requirement is imposed as a condition of approval, believes the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed development, then the Developer shall state in writing the reasons for such and shall provide a study in support of

such position. The City Engineer shall evaluate the study and shall make a determination based upon analysis of the information contained in the study. The City Engineer shall notify, in writing, the Developer of the determination. The Developer's study shall, at a minimum, include the following information, and may also contain other pertinent data and analysis:

1. Total capacity of the City's water, wastewater, storm water, or roadway system to be utilized by the proposed development, employing standard measures of the capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information also shall be provided for the entire development proposed, including any phases already developed;
2. Total capacity to be supplied to the City's water, wastewater, storm water, or roadway system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of capital improvements;
3. Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of capital improvements. In making this

comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered;

4. The effect of any City participation in the costs of oversizing the capital improvement to be constructed in accordance with the City's requirements;
5. Any other information that shows the alleged disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City;
6. This proportionality analysis should not only be based on any immediate plans for the property, but should be based on the size of the property, existing use of the property, the existing zoning, and what impacts the highest and best use of the property could have on the City's infrastructure system; and
7. Only costs directly related to the dedication or construction requirement should be included in the analysis. Indirect costs, such as applications, permits, and fees, shall not be included.

(e) *Responsible Official.* The City Engineer is the Responsible Official for an appeal for relief from a dedication or construction requirement. Where the appeal is for relief from dedication of rights-of-way for or construction of a facility in the City's extraterritorial jurisdiction that is to be dedicated to the public, the City Engineer may coordinate a recommendation with the county official responsible for reviewing plats in the county.

(f) *Evaluation and decision.* The Development Review Committee shall make an initial review of the appeal and supporting study and shall provide comments to the City Engineer. The City Engineer shall evaluate the appeal, the supporting study, and the Development Review Committee comments and shall make a determination based upon the information contained in the Developer's study, any comments received from the county and Development Review Committee, and the City Engineer's own analysis of pertinent data and the circumstances of the case.

g) *Adjustments.* If the City Engineer is persuaded by the materials considered under the preceding subsection, then the City Engineer is authorized to make reasonable and necessary adjustments to infrastructure requirements, exactions, required dedications, and similar, so as to render such roughly proportionate to the impact of the development on the City's facilities. In most instances where an adjustment is warranted, a reduction of the requirements would likely be most appropriate, rather than a complete waiver of dedication or construction requirements.

#### **Section 4-6-66. Appeal.**

a) *Purpose and Policy.* The purpose of an appeal of the City Engineer's determination that the routine application of uniform dedication and construction standards to a proposed plat does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands

created by the proposed plat on the City's public facilities systems relative to what is normal and reasonable for other similar subdivisions of property.

- b) *Appeal.* A Developer who disputes the determination made under this article may appeal to the City Council as provided in the Texas Local Government Code, Chapter 212.904, as amended.
- c) *Procedure.* The developer seeking relief from a required dedication, allocation of construction cost, or other exaction shall allege that application of the standard requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm water, other utility, roadway system, or other public facility as the case may be, or does not reasonably benefit the proposed development. The appeal shall be in the form of a letter to the City Manager explaining the Developer's grounds and reasoning for why the Developer believes the requirements are not proportional to the development's impact on City facilities. The City Manager shall forward the appeal letter to the City Council for consideration, together with all evaluation materials produced or considered by the City Engineer and Development Review Committee under the preceding section, including the Study submitted by the Developer in the preceding section.
- d) *Time for Filing.* An appeal shall be filed within ten (10) business days after the City Engineer's determination of the matter.
- e) *Public Hearing; Burden of Proof.* The City Council shall promptly schedule and conduct a public hearing after the appeal letter is received from the City Manager. The Developer bears the burden of proof to demonstrate that the City

Engineer's determination results in a disproportionate burden on the Developer.

f) *Action.* Within thirty (30) days after the Public Hearing, the City Council shall determine the matter and issue one of the following actions:

- 1) Deny the appeal, and impose the standard or condition in accordance with the initial decision;
- 2) Deny the appeal, and further require that additional dedications of rights-of-way for or improvements to such systems, or other requirements, be made as a condition of approval of the application in order to adequately offset the impacts of the development;
- 3) Grant the appeal and waive part or all of a dedication or construction requirement to the extent necessary to achieve proportionality; or
- 4) Grant the appeal and further direct that the City participate in some or all of the costs of constructing the capital improvement under standard participation policies.

(g) *Notification of Decision.* The Developer shall be notified of the City Council's decision by the City Engineer within five (5) business days after the decision.

(h) *Judicial review.* The Developer may appeal the City Council's decision as provided by State law.

**Secs. 4-6-67 to 4-6—100. Reserved.**