

**ORDINANCE NO. 2009-17**

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF SEALY, TEXAS, BY DELETING THEREFROM ALL OF APPENDIX A, "SUBDIVISIONS OF LAND AND PLATS" AND SUBSTITUTING THEREFOR A NEW CHAPTER 87; PROVIDING RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND AND PLATS WITHIN THE CITY OF SEALY, TEXAS, AND ITS EXTRATERRITORIAL JURISDICTION; PROVIDING DEFINITIONS; ESTABLISHING PROCEDURES AND REQUISITES FOR THE SUBMISSION AND APPROVAL OF PLATS; CONTAINING REQUIREMENTS AND MINIMUM DESIGN AND CONSTRUCTION STANDARDS FOR STREETS, UTILITIES, AND OTHER PUBLIC IMPROVEMENTS; CONTAINING OTHER MATTERS RELATED TO THE SUBJECT; PROVIDING A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ORDINANCE NO. 2004-04, ADOPTED ON JULY 14, 2004, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.**

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Section 1. The Code of Ordinances of the City of Sealy, Texas, is hereby amended by deleting therefrom Appendix "A," "Subdivision of Land and Plats," and substituting therefor a new Chapter 87, to provide as follows:

**"CHAPTER 87**

**SUBDIVISION OF LAND AND PLATS**

**PART I. GENERAL PROVISIONS**

**Sec. 87-01. Application.**

This Chapter shall apply to all subdivisions of land within the City of Sealy, Texas, and its area of extraterritorial jurisdiction.

**Sec. 87-02. Definitions.**

For the purposes of this Chapter, the following terms, phrases and words, shall have the meanings ascribed thereto. When not inconsistent with the context, words used in the present tense shall include the future tense; words used in the singular number shall include the plural number; and words used in the plural number shall include the singular number. Any office referred to herein by title shall include the person employed or appointed for that position or his or her duly authorized representative. Terms, phrases, or words not expressly defined herein are to be considered in accordance with customary usage.

*Block* shall mean an identified tract or parcel of land established within a subdivision surrounded by a street or a combination of streets and other physical

features and which may be further subdivided into individual lots or reserves, as defined in Section 87-42 hereof.

*City* shall mean the City of Sealy, Texas, a home-rule municipal corporation located within Austin County.

*City Council* shall mean the duly elected governing body of the City.

*Commission* shall mean the Planning Commission of the City

*Comprehensive plan* shall mean the general plan for growth and development of the City and its environs, including any elements of such plan, such as a land use plan, thoroughfare plan, utilities plan, drainage plan, infrastructure master plan, parks plan, capitol improvement plan, and others.

*Director of Planning and Community Development* shall mean the person authorized by the City as its Planning and Community Development Director.

*Easement* shall mean an area intended for restricted use on private property upon which a person has the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, and other improvements or growths which in any way endanger or interfere with the construction, maintenance, or operation of any of their respective utility, drainage, access, or other authorized systems or facilities located within any such easement. Any such person owning an easement shall at all times have the right of unobstructed ingress and egress to and from and upon the said easement for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, and adding to or removing all or part of their respective systems or facilities without the necessity at any time of procuring the permission of the property owner or inhabitant.

*Final plat* shall mean a complete and exact subdivision plan prepared in conformity the provisions of this Chapter and in a manner suitable for recording with the County Clerk of Austin County, Texas.

*Lot* shall mean a physically undivided tract or parcel of land having frontage on a public street or approved private street that has been built to meet current City specifications and which is, or in the future may be, offered for sale, conveyance, transfer or improvements; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol on a duly approved subdivision plat that has been properly recorded.

*Person* shall mean any individual, partnership, association, firm, corporation, governmental agency, or political subdivision.

*Preliminary plat* shall mean a map or drawing of a proposed subdivision prepared in accordance with the provisions of this Chapter, illustrating the features of the development for review and preliminary approval by the Commission and the City Council, but not suitable for recording with the County Clerk of Austin County, Texas.

*Street* shall mean a thoroughfare or right-of-way designed or used as a transit way for motor driven vehicles.

*Street, private* shall mean a privately owned street approved by the City and that has been built to meet City specifications, which provides vehicular access to adjacent private land.

*Street, public* shall mean a street owned and maintained by the City, county, state, or federal government.

*Street, local* shall mean a street used primarily for access to abutting properties and which is intended to serve traffic within a limited area.

*Street, cCollector* shall mean a street designed to carry traffic from local streets to the major system of arterial streets and highways.

*Street, arterial* shall mean a street designed as a principal traffic artery, more or less continuous across the City, intended to connect remote parts of the City, and used primarily for fast or heavy volume traffic.

*Subdivision* shall mean the division of any lot, tract or parcel of land by plat, map or description into two (2) or more parts, lots or sites for the purpose, whether immediate or future, of sale, rental or lease, or division of ownership. Any dedication and the laying out or realignment of new streets, or other public or private access ways, with or without lotting, shall constitute a subdivision. Subdivision shall also include the resubdivision and replatting of land or lots that are part of a previously recorded subdivision. An "addition" is a subdivision as defined herein. The term "subdivision" shall also include the division of land whether by plat or by metes and bounds description and when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

*Subdivider and/or Developer* shall mean and include any owner, or authorized agent thereof, proposing to divide or dividing land so as to constitute a subdivision according to the terms and provisions of this Chapter. The terms "subdivider" and/or "developer" are synonymous for the purposes herein.

*Title certificate* shall mean a certificate prepared and executed by a title company authorized to do business in the State of Texas or an attorney licensed in the State of Texas describing all encumbrances of record that affect the property, together with all deeds recorded from and after September 1, 1982. Such certificate shall include all property included within the platted area, and such certificate shall not have been executed more than thirty (30) days prior to submission of same to the Commission.

#### **Sec.- 87-03. Special provisions.**

(a) *Plat approval required.* It shall be unlawful for any person to subdivide any tract, lot, or parcel of land within the City of Sealy, Texas, or within the extraterritorial jurisdiction of the City, unless and until a preliminary and final plat of such subdivision has been approved in accordance with the terms of this Chapter. Unless and until a final plat, plan or replat of a subdivision shall have been first approved in the manner provided herein by the Commission and the City Council, it shall be unlawful for any person to construct or cause to be constructed any street, utility facility, building, structure, or other improvement on any lot, tract, or parcel of land within such subdivision, except as specifically permitted herein. In addition, it shall be unlawful for any official of the City to issue any permit for such improvements, or any aspect thereof,

or to serve or connect said land, or any part thereof, with any public utility which may be owned, controlled, or distributed by the City. Provided further, it shall be unlawful for any person to serve or connect any lot, tract, or parcel of land within any such subdivision with any utility service or facility unless and until a final plat of such subdivision has been approved in accordance herewith.

(b) *Variance.* The rules and regulations provided herein or incorporated hereby are the minimum standards and requirements of the City of Sealy, Texas. A variance from any such rule or regulation may be granted by the City Council only upon a good and sufficient showing by the owner that (1) there are special circumstances or conditions affecting the property in question; and (2) that enforcement of the provisions of this Chapter will deprive the applicant of a substantial property right; and (3) that if a variance is granted it will not be materially detrimental to the public welfare or injurious to other property or property rights in the vicinity. Each and every application for a variance shall be decided solely and entirely on its own merits, and the disposition of any prior or pending application for a variance shall not be allowed to enter into or affect any decision on the application in question. Pecuniary interests shall not be considered as a basis for the granting of a variance. No application for a variance shall be considered unless submitted, in writing, no later than the date application for final plat approval is submitted.

(c) *Improvements required.* All of the improvements required under these regulations, improvements specified in the City's Comprehensive Plan, and improvements which, in the judgment of the City Council, are necessary for the adequate provision of streets, drainage, utilities, municipal services and facilities to the subdivision, shall be constructed at the sole expense of the Developer.

(d) *Streets and utilities.* The City shall not repair, maintain, install or provide any streets or public utility services within a subdivision for which a final plat has not been approved and filed of record and in which the standards contained herein or referred to herein have not been complied with in full.

(e) *Exemptions.* The provisions of this Chapter shall not be construed to prohibit the issuance of permits for construction on any lot which was in existence prior to September 1, 1982, nor to prohibit the repair, maintenance or installation of any street or public utility service for, to or abutting any lot, the last recorded conveyance of which prior to September 1, 1982, was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to September 1, 1982.

The provisions of this Chapter shall also not apply to:

(1) Existing cemeteries complying with all state and local laws and regulations (this exemption shall not apply to new cemeteries or expansion of existing cemeteries);

(2) Subdivisions of land created by order of a court of competent jurisdiction;

(3) Subdivisions of land into parts greater than ten (10) acres where no public improvement is being dedicated and each part has access to a public street that meets the City's minimum street width requirements as set forth in Section 87-35(b) of this Chapter;

(4) The subdivision of a tract of land into four or fewer parts, which does not lay out a part of the tract as streets, alleys, squares, parks, or other parts of the tract intended to be dedicated for public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts, if each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree of consanguinity or affinity, as determined under Chapter 375 of the Texas Government Code. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this Chapter apply; or

(5) Subdivision development that is exempt by other law.

If a subdivision of land is determined to be exempt from the provisions of this Chapter under paragraphs (2), (3), (4), or (5) of this Section, then said subdivision of land must still comply with the regulations set forth in the following sections of this Chapter:

Section 87-44. Lots, General Provisions

Section 87-45. Minimum Lot Sizes

Section 87-46. Utilities

Section 87-47. Drainage

Section 87-48. Sanitary Sewer

Section 87-49. Water

If platting is not required, the City may, upon proper application and submission of such information as shall be deemed necessary, authorize the issuance of building permits or site plan approvals.

(f) *Authorized agent.* A person may act as agent for a subdivider/developer upon submission with each application for preliminary and/or final plat approval of a certified copy of a Power of Attorney, certified by the County Clerk of Austin County, Texas, containing in such certification the recording information of such Power of Attorney in the records of Austin County, and such certification being dated not more than seven (7) days prior to the date of such application filing. Further, the Power of Attorney must specifically authorize the applicant to act on behalf of the subdivider/developer, must specifically identify the tract proposed for subdivision, and must state that the Power of Attorney authorizes the agent to execute all necessary documents and dedicatory statements necessary to effect final plat approval and recording thereof.

**Secs. 87-04 87-10. Reserved.**

## **PART II. PROCEDURE FOR SUBMISSION OF PLATS**

**Sec. 87-11. Preliminary conference.**

Prior to the official filing of a preliminary plat, the subdivider, his planner, or other appropriate representative, shall consult with City staff for comments and advice on the procedures, specifications, and standards required by the City as conditions for subdivision plat approval. If requested in writing, the Commission shall place, for discussion purposes only, an item on its agenda regarding the proposed subdivision in order to assist a subdivider on matters affecting such proposed subdivision.

(a) *Traffic impact analysis.* Any land plan or subdivision plat involving a change to a proposed thoroughfare plan as described in this Section must be preceded by submission of a traffic impact analysis.. A traffic impact analysis shall also be required in any case in which, based on the engineering judgment of the Director of Planning and Community Development, the proposed development or land use action would significantly affect the adjacent transportation system. Examples of such cases include, but are not limited to,: non-single family development in single-family residential areas, proposals adding traffic to or creating known or anticipated safety or neighborhood traffic concerns, or proposals that would generate a high percentage of truck traffic (more than 5% of site traffic). Failure to provide a traffic impact analysis and/or traffic study shall be grounds to deny the filing of any subdivision plat tendered or offered for filing.

(b) *Calculation of trip generation and distribution.* Trip generation data provided in the most recent edition of the ITE publication Trip Generation should be used unless more appropriate data is available. Average trip generation formulas (where applicable) or rates are normally used; however, more conservative calculations may be required by staff in some cases. Directional trip distribution assumptions should be based on historical data, existing and future travel characteristics, and capacity constraints. City staff may require data collection at similar facilities if City staff determines that insufficient trip generation data is currently available.

The Transportation Impact Analysis (TIA) report shall include at least the following minimum components (incomplete reports will be returned to the applicant's representative for completion):

(1) The TIA report shall be signed and stamped by a Professional Civil or Traffic Engineer registered in the State of Texas.

(2) An executive summary, discussing the development, the major findings of the analysis, and the mitigation measures proposed.

(3) A vicinity map showing the location of the proposed project in relation to the transportation system of the area.

(4) A complete description of the proposed development, including a site plan, with the best available information as to the nature and size of each proposed use, and the proposed location and traffic control of all proposed access points (including the distance from all proposed access points to adjacent accesses and/or streets).

(5) A brief description of the current (and proposed, if applicable) land uses adjacent to the site, including the location, size, current use, and future use of any land parcels that are not part of the subject application, but may use the subject parcel for all or part of their access. If there is potential for development

of these parcels, include the best available information as to the potential future use of each parcel.

(6) A description of the TIA study area, including roadway names, locations and functional classifications, intersection lane configuration and traffic control (including signal timing), existing Right-of-Way, transit routes and stops (if any), pedestrian and bicycle facilities, and planned transportation system improvements.

(7) Existing traffic volumes (measured during design conditions and/or the peak season. Consult City staff to determine what type of count data (turning movement, ADT, or classification) is necessary. (8) Accident data within the study area for the most recent available three-year period.

(9) Existing performance of the transportation system, including Levels of Service (LOS) and Volume/Capacity ratios (V/C) for all intersections and road segments as appropriate within the study area.

(10) Complete trip generation figures for all aspects of the proposed development, including number of trips by vehicle type and size, and time-of-day and entering/exiting percentages. These figures shall include trip generation figures for any other proposed developments on the subject property, and/or any proposed developments that would share access with the subject property. For developments expected to generate a significant amount of truck traffic (more than 30 trucks per day), include separate figures for trucks. Document the sources of this trip generation data. If the source is other than ITE's *Trip Generation*, the preparer must obtain approval of the use of such data from City staff before using it in the TIA.

(11) Trip generation figures for any pending and approved developments that would affect the study area. City staff will facilitate procurement of applicable data in these cases.

(12) Identification of the critical analysis period(s) and justification of this identification.

(13) Trip distribution for the proposed development. For developments expected to generate more than thirty (30) truck trips per day, include separate trip distribution figures for trucks.

(14) Forecast traffic volumes without the development, in the year that the proposed development is planned to open, and in the horizon year (consult City staff for information to determine these future traffic volumes). If phased development is proposed, include projections for the year that each phase of the development is planned to be complete.

(15) Forecast performance (including LOS and V/C) of the transportation system without the development in the year that each phase is planned to be complete and in the horizon year.

(16) Forecast traffic volumes, including the proposed development traffic, in the year that each phase of the development is planned to open, and in the horizon year.

(17) Forecast performance (including LOS and V/C) of the transportation system, with the proposed development, in the years that each phase of the proposed development is planned to open, and in the horizon year. Include analysis of signal warrants, signal progression, queue lengths, and other traffic flow characteristics as appropriate. For developments expected to generate a significant percentage of truck traffic, demonstrate how the analysis adequately accounts for the presence of these trucks in the traffic flow.

(18) Safety analysis of the site accesses, including sight distance and operational characteristics.

(19) Analysis of right and left turn lane warrants, queue lengths, acceleration lanes, throat lengths, channelization, and other characteristics of the site accesses as appropriate.

(20) Comparison of the location and spacing of the proposed accesses with City of Sealy standards, the standards of the appropriate city for developments within Urban Growth Boundaries, and/or Texas Department of Transportation standards for developments near state highways.

(21) Analysis of the parking needs of the proposed development, the adequacy of the proposed facilities to meet those needs as appropriate, and the conformance of the proposed parking facilities to applicable standards.

(22) Evaluation as appropriate of the turning and traveling characteristics of the vehicles that will be using the proposed development and the adequacy of the geometrics of the existing and proposed roadway (public and/or private) configurations to accommodate these characteristics.

(23) Analysis as necessary of the adequacy of the internal vehicle and pedestrian circulation systems to serve the proposed development and how the design of the development addresses the Transportation Planning Rule requirements regarding pedestrian-, bicycle-, and transit-friendly developments.

(24) Analysis as appropriate of any potential adverse or controversial effects of the proposed development on the transportation system or quality of life in the area. Examples of possible effects include, but are not limited to, infiltration of non-residential traffic into residential neighborhoods, traffic noise, creation of potential for traffic violations, conflicting turning movements with other driveways, etc.

(25) Analysis as appropriate of the effect of the proposed development on pedestrian and bicycle transportation in the area, and any new pedestrian or bicycle transportation needs arising from the development.



(26) Listing of all intersections and locations that are projected to not meet City of Sealy (or other jurisdiction, as appropriate) intersection performance standards in the TIA study area during the required analysis period.

(27) Description and analysis of mitigation measures necessary to bring these intersections and locations into compliance with the applicable standards. Include analysis showing that these measures will bring these locations into compliance and include signal, turn lane, or other warrant analyses as appropriate. The TIA shall also specify the timing and phasing of any new traffic signals and the length of any new turn lanes. Any mitigation measures recommended in the TIA shall be physically and economically feasible, and this feasibility may need to be demonstrated in questionable cases.

(28) Copies of raw traffic count data used in the analysis (this may be presented in an appendix).

(29) Calculation sheets and/or computer software output for all LOS and V/C calculations in the analysis. For signalized intersections, this must include the signal timing used in the analysis (this may be presented in an appendix).

(30) Warrant worksheets for signals, turn lanes, signal phasing, all-way-stops, and other proposed measures as appropriate (this information may be presented in an appendix).

#### **Sec. 87-12. Land plan approval.**

A land plan consisting of a general plan, master plan, and/or concept plan shall be submitted to the Commission and the City Council prior to or in conjunction with the submittal of any preliminary plat, except as noted below, for any tract of land over fifty (50) acres in size. If the Director of Planning and Community Development determines that an area less than fifty (50) acres contains unique features or is surrounded by existing or proposed subdivisions with potential limited access, a land plan may be required to be reviewed prior to the preliminary or final plat submittal. The decision of the Director of Planning and Community Development to require a land plan shall be deemed final and binding as a condition prerequisite to further review of the proposed subdivision plan.

(a) *Purpose.* The purpose of the land plan is to allow the Commission and the City Council to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the comprehensive master plan, the property's relationship to adjoining subdivisions or properties, as well as such additional development or infrastructure review as deemed necessary by the City.

(b) *Partial development.* Where a phased or partial development is proposed, the land plan area shall include the entire property from which the initial or any subsequent phase is being subdivided. Where the applicant can demonstrate that natural or manmade features, such as creeks and thoroughfares, make unnecessary the inclusion of the entire property in the land plan to adequately review the proposed subdivision for compliance with all of the terms and provisions of this Chapter, the Subdivider may request approval from the Commission for a submittal of a smaller land plan area.

Boundaries such as thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller land plan area.

(e) *Plan not required.* A land plan shall not be required if the preliminary plat(s) contains sufficient information to provide for the proper coordination of development.

(f) *Application and fees.* The submittal of the land plan shall be accompanied by the completed Application for Land Plan Approval and a nonrefundable application fee tendered in the form of a check made payable to the "City of Sealy, Texas," in the amount as is specified in the City's Schedule of Fees, as adopted, and from time to time amended, by the City Council, and on file with the City Secretary of the City.

(g) *Graphics requirements.* The following are the graphics requirements of a land plan:

- (1) A scale of 1" = 200' or 1" = 400';
- (2) A title block within the lower right corner of the land plan;
- (3) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, water courses and ditches. The vicinity map shall be located in the upper right corner of the drawing or map;
- (4) Proposed name of the development;
- (5) The name and address of the subdivider and the land planner, engineer, or surveyor responsible for the design or survey;
- (6) A graphic scale indicating the scale at which the drawing is prepared;
- (7) Date of the drawing;
- (8) The legal description of the tract according to the abstract and survey records of the county;
- (9) North clearly indicated to the top or left of the plan;
- (10) The perimeter of the boundary drawn in a bold solid line;
- (11) The names of adjacent additions or subdivisions with respective recording information and/or owners of adjoining parcels of unplatted land with respective recording information;
- (12) The recommended land use on adjoining land, as determined in the comprehensive master plan of the City;
- (13) The location, width and names of all existing or platted streets or other public rights-of-way within and/or adjacent to the tract;
- (14) Existing permanent buildings;

- (15) Railroad rights-of-way;
- (16) Topography with contours at five-foot intervals;
- (17) Existing drainage channels or creeks and other important natural features;
- (18) Existing pipelines, fee strips and easements;
- (19) Adjacent political subdivisions and corporate limits;
- (20) The proposed layout and width of proposed thoroughfares, collector streets and minor streets; and
- (21) Designation of tracts as lots or reserves in accordance with anticipated usage;

**Sec. 87-13. Application for preliminary plat approval.**

Any person desiring approval of a preliminary plat shall first file, in triplicate, an Application for Preliminary Plat Approval. Forms for such applications shall be kept on file with the City Secretary and shall be in a form approved by the City Council. Consideration of a preliminary plat by the Commission or the City Council shall not occur unless a fully completed and executed application has been filed in accordance with this Chapter. If, in the opinion of the Director of Planning and Development Services, the form of the Application or plat submitted therewith does not conform with or meet the minimum requirements of this Chapter, the Chairman of the Commission is hereby authorized to deny, on behalf of the Commission, any Application for preliminary plat approval.

(a) *Submittal date and time.* All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the City Secretary not later than twelve o'clock (12:00) p.m., fourteen (14) days prior to the next regularly scheduled Commission meeting. Materials received after twelve o'clock (12:00) p.m. on the date specified herein shall automatically be placed on the agenda of the second regularly scheduled Commission meeting following submittal.

(b) *Copies required.* The applicant shall provide six (6) twenty-four inch by thirty-six inch (24" x 36") and twenty (20) eleven inch by seventeen inch (11"x17") paper prints from the original drawing of the plat reproduced on white paper with blue or black lines, each of which shall be folded to eight and one-half inches by twelve inches (8-1/2" x 12"), and indicating the title block in the lower right-hand corner of the plat.

(c) *Filing fees.* An Application For Preliminary Plat Approval shall be accompanied by a nonrefundable application fee tendered in the form of a check and made payable to the "City of Sealy, Texas," in the amount as is specified in the City's Schedule of Fees, as adopted, and from time to time amended, by the City Council and on file with the City Secretary of the City.

(d) *Encumbrances information.* An Application For Preliminary Plat Approval shall be accompanied by a title opinion or a statement or certificates, either in a separate writing

or on the face of the plat, and properly executed by the applicant or the person who prepared the plat, certifying that all existing encumbrances other than liens, such as various types of easements, fee strips, or significant topographical features such as lakes, ponds, bayous or other bodies of water; creeks, streams, gullies, ravines, ditches, or other natural drainage ways; and any known fault lines, on the land being platted, are fully shown and accurately identified on the face of the plat, and further stating whether the plat being submitted includes all of the contiguous land that the subdivider owns directly or indirectly, or has a legal or beneficial interest in, or whether the subdivider owns or has a legal interest in any adjacent property. If the subdivider owns or has a legal interest in any adjacent property, the extent of such ownership and a boundary description of the land involved shall also be provided.

(e) *Notice to utilities.* Evidence of notice to all utility companies that provide service to the area encompassed by the proposed subdivision, whether public or private, shall accompany each Application for Preliminary Plat Approval. Such notice shall contain a statement of the intent to subdivide, the intended use of the property within the subdivision, and shall have attached to such notice a copy of the preliminary plat that is filed within the City.

#### **Sec. 87-14. Form and content of preliminary plats.**

All preliminary plats submitted to the Commission and the City Council shall be in the form and contain fully all information and/or language required hereunder:

(a) The proposed name of the subdivision or development, which shall not be a duplicate of any subdivision or development of record within Austin County, Texas;

(b) The legal description of the property proposed to be subdivided including the name of the county, survey, and abstract number, together with reference to at least one established corner of a nearby recorded subdivision or the nearest public street right-of-way intersection;

(c) The title block shall include the total acreage, and total number of lots, blocks, and reserves;

(d) The names, of the owner of the property. If the owner is other than a natural person, the name of the owner, or principal officer, of the entity which owns such property,;

(e) The name, address, and phone numbers of the person or firm who prepared the plat;

(f) The date on which the plat was drawn;

(g) The north arrow point. The drawing of the subdivision shall be oriented with north to the top of the drawing unless the subdivision is configured in such a way as to make this confusing;

(h) The scale of the plat shall be drawn numerically and a graphic/bar scale shall be provided. The scales acceptable for a preliminary plat shall be either one-inch (1")

equals 100 or 200, feet, or for small projects (less than 10 acres) one inch (1") equals 20, 30, 40, 50 or 60 feet;

(i) A scale vicinity map shall be provided and made a part of the plat indicating the general location of the subdivision and its relationship with well-known streets, railroads, water courses and similar features in all directions from the subdivision to a distance not less than one-half (1/2) mile. The scale of the vicinity map shall be to legible scale and shall be oriented with north to the top of the drawing that shall also be the same direction as the detailed subdivision drawing;

(j) The plat boundaries shall be drawn with heavy lines to indicate the subdivided area with overall survey dimensions and bearings. Lines outside the plat boundary should be drawn as dashed lines;

(k) The adjacent areas outside the plat boundaries shall be identified indicating the name of adjacent subdivisions (including recording information), the names of the recorded owners of adjacent parcels of land, churches, schools, parks, bayous, and drainage ways, acreage, and all existing streets, easements, pipelines, and other restricted uses;

(l) The location and approximate width of existing and proposed water ways, such as creeks, streams, gullies, ravines, or ditches; drainage easements; topographical elevations; and the boundaries of designated flood zones, as provided in the most recent edition of the Federal Insurance Rate Map. All such information required herein shall be certified by a Registered Professional Land Surveyor.

(m) Contours shall be shown on the plat as described in the City of Sealy Master Drainage Plan and Chapter 27 of this Code, "Drainage Criteria".

(n) The location of all lots within the boundaries of the plat with overall survey dimensions, bearings, lot numbers and blocks.

(o) The location and identification of all tracts not designated as lots within the boundaries of the plat. Such tracts, if not restricted for specific uses, shall be identified as "Unrestricted Reserve." "Restricted Reserves" shall be indicated on the plat and shall be designated as single-family residential, utility, church, park, recreational, school, or other specific use;

(p) The location, widths, names, and recordation information from the appropriate county property records of all existing or platted streets, roads, alleys, and easements, either existing or proposed, within the plat boundaries or immediately adjacent thereto, the location of all existing permanent buildings within the plat boundaries, and all existing easements and other important features, such as section lines, political subdivision or corporate limit lines, on all sides, for a distance of not less than two hundred feet (200');

(q) Existing sewers, water and gas mains, culverts, bridges, pipelines, structures, or public utilities within the tract and immediately adjacent thereto with ownership, sizes of the improvements, grades, and locations indicated; and

(r) The proposed layout of the subdivision, showing streets, blocks, lots, alleys, easements, building setback lines, parks, and other features, if known, within the plat boundaries, with principal dimensions, if known.

#### **Sec. 87-15. Application for final plat approval.**

Any person desiring approval of a final plat shall first file an Application for Final Plat Approval. Forms for such applications shall be kept on file with the City Secretary and shall be in a form approved by the City Council. Consideration of a final plat by the Commission and the City Council shall not occur unless a fully completed and executed application has been filed in accordance with this Chapter. If, in the opinion of the Director of Planning and Community Development, the form of the Application or plat submitted therewith does not conform with or meet the minimum requirements of this Chapter, the Chairman of the Commission is hereby authorized to deny, on behalf of the Commission, any Application for final plat approval.

(a) *Time for filing.* All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the City Secretary not later than twelve o'clock (12:00) p.m., fourteen (14) days prior to the next regularly scheduled Commission meeting. Materials received after twelve o'clock (12:00) p.m. on the date specified herein shall automatically be placed on the agenda of the second regularly scheduled Commission meeting following submittal.

(b) *Copies required.* The applicant shall provide six (6) twenty-four inch by thirty-six inch (24" x 36") and twenty (20) eleven inch by seventeen inch (11" x 17") paper prints from the original drawing of the plat reproduced on white paper with blue or black lines, each of which shall be folded to eight and one-half inches by twelve inches (8-1/2" x 12"), and indicating the title block in the lower right-hand corner of the plat. It requested by the Director of Planning and Community Development, the City shall also be provided with an AutoCad, Release 12 or later edition, .DWG file or compatible .DXF file on CD-Rom.

(c) *Filing fees.* An Application for Final Plat Approval shall be accompanied by a nonrefundable application fee tendered in the form of a check and made payable to the "City of Sealy, Texas," in the amount as is specified in the City's Schedule of Fees, as adopted, and from time to time amended, by the City Council and on file with the City Secretary of the City.

(d) *Certificates of availability of utilities.* Each final plat shall be accompanied by a written certification from each entity, whether public or private, from which utility services are to be received, certifying the availability of same, and that such entity agrees to provide its respective utility service to the subdivision. In addition, where applicable, each such entity providing utility services shall certify approval or conformance of the construction plans to ensure compliance with such utility entity's construction standards.

#### **Sec. 87-16. Form and content of final plat.**

All final plats shall incorporate all of the provisions relating to preliminary plats in Section 87-14 of this Chapter and, where appropriate, reflect any conditions and requirements of final approval previously imposed by the City Council, together with the following additional requirements:

(a) The final plat shall be drawn on stable plastic film or positive photographic film with black lines and image and shall be made suitable for the reproduction of direct positive prints and reproductions. Paper sepia shall not be used;

(b) Scale for a final plat drawing shall be one of the following: one inch (1") equals 100, 60, 50, 40, 30 or 20 feet;

(c) All engineering and surveying data shall be shown on the final plat sufficient to locate all of the features of the plat on the ground. This data shall include, but not be limited to, full dimensions along all boundaries of the plat; street and alley rights-of-way; easements; drainage ways, such as lakes, ponds, bayous, creeks, streams, gullies, ravines, or ditches, together with the location of the high bank of such drainage ways and water courses; lots; blocks; reserves; out tracts, or any other tracts designated separately within the plat boundaries; fee strips, or any other physical or topographical features necessary to be accurately located by surveying methods. Such information shall include line dimensions, bearings of deflecting angles, radii, central angles and degree of curvature, length of curves and tangent distances, all of which are to be shown in feet and decimal fractions thereof;

(d) The name of the owner of the property. If the owner is other than a natural person, the name of the owner, or principal officer, of the entity which owns such property,;

(e) The name and seal of the Registered Professional Land Surveyor responsible for preparing the plat;

(f) The date of submittal, and the date of submittal of each subsequent revision;

(g) All streets and alleys with street names, widths measured at right angles or radially (where curved), complete curve data (R, L, P.C., P.R.C., and P.T.) length and bearing all tangents between curves;

(h) Building lines and easements shall be shown and shall be defined by dimension. All principal lines shall have the bearing given and deviation from the norm indicated. The plat must provide a statement on its face indicating that the minimum finished floor elevations shall be twelve inches (12") above the 100-year flood plain elevation, eighteen inches (18") above natural ground, or twelve inches (12") above the top of curb at the front of the lot, whichever is higher. The plat must provide a note stating that all existing pipelines or pipeline easements through the subdivision have been shown or that there are no existing pipeline easements within the limits of the subdivision;

(i) All field surveys shall be accurate to, and performed in accordance with, the appropriate provisions of the current edition of the Manual of Practice Standards for Surveying in Texas, as periodically published by the Texas Society of Professional Surveyors. Linear dimensions shall be expressed in feet and decimals of a foot; angular dimensions may be shown by bearings in degrees, minutes, and seconds. Curved boundaries shall be fully described and all essential information given. Circular curves shall be defined by actual length of radius and not be degree of curve;

(j) The intended use of all lots within the subdivision shall be identified on the plat. All tracts not designated as lots within the boundaries of the plat shall be identified as provided in Section 87-14(n) herein; and

(k) All dedication statements and certificates shall be made a part of the final plat drawing and shall conform in form and content to the form of statements and certificates set forth in Section 87-61 below.

#### **Sec. 87-17. Minor plat.**

A minor plat, as specified in the Texas Local Government Code, may be approved administratively in limited circumstances, in order to create or adjust property lines and/or easements as defined in the plat for the purpose of development flexibility. The minor plat shall involve four (4) or fewer lots on an existing street and shall not require the creation of any new street or extension of municipal facilities. The minor plat shall meet all the requirements of a final plat, with the exception of approval by the Commission and the City Council, and compliance with the requirements of Section 87-14(m) hereof.

#### **Sec. 87-18. Amending plats.**

An amending plat, as specified in the Texas Local Government Code, may be approved administratively in limited circumstances, to amend a plat, previously approved by the city council and duly recorded, which is signed by the applicants and is solely for one or more of the purposes enumerated in this Section. An amending plat is not to be considered as a replat or re-subdivision and may not contain any changes or additions to the physical characteristics of the original subdivision, but is intended only to correct errors or miscalculations.

An amending plat may be filed solely for one or more of the following purposes:

- (1) To correct an error in a course or distance shown on the preceding plat;
- (2) To add a course or distance that was omitted on the preceding plat;
- (3) To correct an error in a real property description shown on the preceding plat;
- (4) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) 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;
- (6) 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;
- (7) To 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;
- c. The amendment does not attempt to remove recorded covenants or restrictions; and



d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;

(8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;

(9) To 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) 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:

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 municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or

(11) To 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

#### **Sec. 87-19 Lot Consolidation and Lot Line Adjustment**

(a) *Scope of section.* Lot consolidation or adjustment may be accomplished without replatting, provided the appropriate regulations are followed. The Director of Planning and Community Development is authorized to approve, without concurrence of the commission, when all the requirements of this section are met.

(b) *Lot consolidation requirements.*

(1) Under this Section, not more than three (3) lots shall be affected by the proposed lot consolidation.

(2) No such adjustment shall alter any public right-of-way or public easement.

(c) *Lot line adjustment requirements.*

(1) Under this Section, lot line adjustments may be made, provided there is concurrence by the two (2) owners of property involved in the lot line adjustment.

(2) The proposed adjusted lot line shall be a single, straight line or shall be parallel to the existing lot line.

(3) The lot line adjustment shall not be more than a minimum of ten feet (10') average relocation from the existing lot line.

(4) The lot line adjustment shall not be inconsistent with any provision of recorded subdivision restrictions or covenants.

(5) Not more than two (2) lots shall be affected.

(d) *Procedure for approval.*

(a) Under this section, the following shall be submitted to the Director of Planning and Community Development:

(1) A completed application form for the lot line adjustment, accompanied by a filing fee of \$20.00;

(2) Copies of deeds and restrictive covenants to all lots involved;  
and

(3) A scale drawing on legal size paper showing all lots involved, as platted, and as desired.

#### **Sec. 87-18. Plat drawing, reproductions, and filing.**

The original plat drawing for an approved final plat shall be submitted to the Commission and the City Council on a suitable permanent translucent material that the City Council shall, by written rule, from time to time, designate, including, but not limited to stable plastic film or positive photographic film with lines, with lettering and signatures in black ink or image. Paper sepia shall not be used. The names of all persons signing any such plat shall also be lettered under the signature. Two (2) paper prints from the original plat drawing (white paper with blue or black lines) and two (2) positive vellum or film transparency shall also be provided. Filing of such final plats with the County Clerk of Austin County, Texas, as applicable, for recording, shall be made by the City. Such filing shall not be made until (a) completion by the developer of all improvements required as a condition of plat approval and acceptance of such improvements by the City Council or, (b) the filing of a sufficient guarantee of such performance by the developer in accordance with Section 87-65 hereof. Such filing by the City shall be made promptly upon the satisfaction of either condition.

#### **Sec. 87-19. Title report.**

A current title report, statement or opinion, title policy or certificate or letter from a title company authorized to do business in the State of Texas or an attorney licensed as

such in the State of Texas shall be provided certifying that, within thirty (30) days prior to the date the final plat is dated and filed with the Commission, a search of the appropriate records was performed covering the land proposed to be platted and providing the following information concerning the title to said land:

- (a) The date of the examination of the records;
- (b) A legal description of the property lying within the proposed subdivision including a metes and bounds description of the boundaries of said land;
- (c) The name of the record owner of fee simple title as of the date of the examination of the records, together with the recording information of the instruments whereby such owner acquired fee simple title;
- (d) The names of all lienholders together with the recording information and date of the instruments by which such lienholders acquired their interests;
- (e) A description of the type and boundaries of all easements and fee strips not owned by the subdivider of the property in question, together with certified copies of the instruments whereby the owner of such easements or fee strips acquired their title, and the recording information for each such instrument; and
- (f) A tax certificate from each city, county, school district, utility, or other governmental entity in which the land being platted is located showing that no delinquent taxes are due such entity for the property being platted.

**Sec. 87-20. Commission and city council action.**

- (a) The Commission and the City Council shall review each plat submitted to it on a preliminary basis and upon a final basis. The Commission makes recommendation to the City Council regarding the approval of any plat and the City Council shall approve any plat if it is in compliance with the provisions of this Chapter and other rules and regulations as may have been or may be adopted by the City Council governing plats and/or the subdivision of land.
- (b) Commission and City Council approval of a land plan or a preliminary plat of a subdivision shall not vest any right in the subdivider of such property to the proposed subdivision plan. The Commission and the City Council may impose new or additional conditions or requirements with regard to such subdivision upon consideration of a final plat approval, which could have been imposed at the time of land plan or preliminary plat approval, to ensure compliance with the provisions of this Chapter and applicable rules, regulations, or ordinances of the City that govern plans and/or the subdivision of land.
- (c) Upon the receipt of a plan or plat, the Commission's or the City Council's authorized actions are as follow:

- (1) Grant preliminary approval or preliminary approval with conditions;
- (2) Grant final approval, or final approval subject to additional conditions; or

(3) Grant preliminary and final approval simultaneously subject to Section 87-22 hereof being satisfied.

(4) Disapprove any plan or plat, either preliminary or final, if the City Council determines that it fails to comply with the policies, standards, or requirements contained in this Chapter or other rules or regulations as may have been adopted by the City Council governing plans, plats, and/or the subdivision of land.

**Sec. 87-21. Expiration of plat approval.**

All preliminary plat approvals granted by the City Council and the conditions thereon, if any, shall be valid for a period of one (1) year from the date on which City Council approval was granted. All final plat approvals granted by the City Council and the conditions thereon, if any, shall be valid for a period of one (1) year from the date on which the final approval was granted by the City Council. The City Council may, upon receipt of a written request from the subdivider or his authorized agent, prior to the expiration date of the final plat approval, extend this term of approval for any time period not to exceed an additional six (6) months. The maximum term for approval of any final plat granted by the City Council that has not been duly recorded shall not exceed a total of eighteen (18) months from the date on which the City Council granted final plat approval.

**Sec. 87-22. Abbreviated platting p.**

(a) *Applicability.* Any person proposing to divide land or consolidate lots or tracts of land may apply for final plat approval pursuant to this Section without the necessity of having first received preliminary plat approval if (a) each lot, tract or parcel of land within the area subject to the plat has direct access to a public street which complies with the requirements hereunder for new subdivisions and which is a part of an existing public street circulation system previously approved by City Council, (b) there is no need for street or thoroughfare dedication pursuant to the City's thoroughfare plan and the proposed development creates no significant traffic congestion on the existing thoroughfare system, and (c) there is no need for dedication, abandonment, relocation, or significant public improvements of easements or rights-of-way for water and/or sanitary sewer services, public utilities, streets, or surface water drainage within the area subject to the plat.

(b) *Procedure/Requirements.* The procedures, application and plat requirements, Commission and City Council actions, and other matters relating to or required for the submission, review, approval and filing of a final plat as required in this Chapter shall apply to plats submitted under this Section 87-22.

**Secs. 87-23 – 87-30. Reserved.**

**PART III. DESIGN STANDARDS**

**Sec. 87-31. Public improvements.**

No preliminary or final plat shall be approved by the Commission or the City Council, and no permit shall be issued for the construction of any improvement intended for public use or for the use of purchasers or owners of lots fronting or adjacent to such

improvement, and no improvement intended for public use shall be accepted by the City, unless any such improvements shall comply with the following standards and specifications.

**Sec. 87-32. Comprehensive plan.**

All improvements required by this Chapter shall conform to the City's Comprehensive Plan, this Chapter, or any other federal, state, or local law or regulation applicable thereto, and all construction shall be in accordance with the "City of Sealy Minimum Construction Standards for Community Improvements."

**Sec. 87-33. General Requirements.**

(a) *Approval of plans required.* Before beginning any construction of the improvements required by this Chapter on proposed roadways, public utilities or drainage facilities, or structures pertaining to any subdivision coming under the provisions of this Chapter and either within the City limits or its ETJ, complete plans and specifications for such improvements shall have first been approved, in their entirety, by the Director of Public Works as meeting the appropriate standards as delineated in Section 87-32 above. In addition, within thirty (30) days following completion of all improvements as required by the City of the owner or subdivider of the subdivision, the owner or subdivider shall provide to the Director of Public Works, three (3) sets of as-built drawings of all underground utilities and street improvements that have been constructed.

(b) *Changes to construction plans.* No change in the plans and specifications for a public improvement required hereunder shall be made without the prior written approval of the Director of Public Works.

(c) *Inspection.* The Director of Public Works shall inspect the construction of all required improvements in the subdivision during the course of construction to see that the same comply with the City's standards governing same and Section 87-64 hereof.

(d) *City standards.* The construction standards referred to in this Chapter may be revised from time to time by the City Council without requiring an amendment to this Chapter, such standards being subject to change by motion duly adopted by the City Council. Any such changes or revisions shall be immediately noted upon such standards.

**Sec. 87-34. Public streets; general arrangement and layout.**

The public street system pattern proposed within any subdivision shall comply with design standards of this Section and shall:

(1) provide for adequate vehicular access to all properties within the subdivision plat boundaries;

(2) provide adequate street connections to adjacent properties to ensure adequate traffic circulation within the general area;

(3) provide a local street system serving properties to be developed for residential purposes which discourages through traffic while maintaining sufficient access and traffic movement for convenient circulation within the subdivision and access by fire, police and other emergency services personnel; and

(4) provide for a sufficient number of continuous streets to accommodate the traffic demands generated by new development.

**Sec. 87-35. Streets; specific standards.**

(a) *Location and alignment.* The location and alignment of public streets proposed to be dedicated and established within a subdivision plat shall be designed in conformance with the standards listed in Section 87-33 hereof.

(b) *Right-of-way width, widening.* The width of the right-of-way to be dedicated for any street shall be as set forth below:

(1) *Local streets.* The width of the right-of-way for local streets shall be not less than eighty feet (80'). Provided, however, a right-of-way width of not less than sixty feet (60') may be approved if there is also dedicated a ten-foot wide drainage and utility easement immediately adjacent to each side of such local street, which in combination would total eighty feet (80') in width, and an open ditch drainage system is provided for such street. In those instances where a proposed subdivision is located adjacent to an existing public street with a right-of-way width less than sixty feet (60'), sufficient additional right-of-way shall be dedicated within the subdivision to accommodate the development of the street to a total right-of-way width of not less than sixty feet (60'). Notwithstanding the foregoing, the Commission may, on written application, in its discretion authorize a street right-of-way width of not less than fifty feet (50') for a local street where such street cannot reasonably be made to continue or extend onto an existing, approved, proposed, or possible future street, is so located that logically it could not be extended to connect with an existing, approved, or proposed street, there is not a likelihood that it would inhibit the ability of the City to provide emergency services from fire, police, medical, or other rescue personnel, the street provides access to single family residential properties only, and the total length of such street does not exceed one thousand feet (1,000').

(2) *Collector streets.* The width of the right-of-way for collector streets shall be not less than eighty feet (80').

(3) *Arterial streets.* The width of the right-of-way for arterial streets shall be not less than one hundred feet (100').

(c) *Lots to abut street.* All lots shown on the plat shall abut a public street, or abut a private street that shall meet all requirements herein for public streets. All lots shown on the plat shall have indicated thereon the front of the lot for subsequent construction of a building. Except for those lots within a commercial complex which share a common access. The common access shall be shown on the face of the plat through an access easement of not less than twenty-four feet (24') in width.

**87-36. Curves and intersections.**

(a) *Local, collector, and arterial streets.* The design and construction of all local, collector, and arterial streets shall meet the guidelines set forth in the "Policy on Geometric Design of Highways and Streets," Fourth Edition, 2001, as published by the American Association of State Highway and Transportation Officials ("AASHTO"), the City's current Comprehensive Plan, and any other applicable design and construction standards adopted by the City. Such considerations as adopted by the City shall include, but not be limited to street function, street capacity, service levels, traffic safety, pedestrian safety, and utility facilities and their location, which may effect the minimum requirements. Proposed streets shall meet this criteria and be approved by the Director of Public Works prior to final design.

(b) *Right angle.* The angle of street intersections shall not vary more than ten degrees (10) from the perpendicular. Where acute angle intersections are approved a radius of at least twenty-five feet (25') in the right-of-way line at the acute corner shall be provided.

(c) *Cul-de-sac right-of-way radii.* The radii of the right-of-way at the end of local streets terminated with a circular cul-de-sac turnaround shall be not less than fifty feet (50'). The City shall cause to be erected at the entrance of any such street a sign reading "dead-end street," but such sign shall be at the expense of the developer.

(d) *Dead-end streets.* Dead-end streets shall not be approved except in those instances where the street is terminated by a temporary circular cul-de-sac turnaround or where the street is designated to be extended into adjacent property. Such dead-end streets must also comply with Section 87-39 hereof, which contains the requirements for the dedication of a one-foot reserve.

(e) *Signs and traffic control devices.* The developer shall be responsible for the installation of all required street signs and traffic control devices, as determined by the Director of Public works or designee. All such signs and traffic control devices shall be in accordance with the Texas Manual on Uniform Traffic Control Devices, 2003 Edition, as published by the Texas Department of Transportation.

(f) *Street lighting.* The developer shall be responsible for the installation of street lighting in accordance with the "City of Sealy Minimum Construction Standards for Community Improvements."

(g) *Sidewalks.* The developer shall be responsible for the installation of sidewalks in all residential subdivisions, and in commercial developments. Sidewalks shall be constructed in accordance with "City of Sealy Minimum Construction Standards for Community Improvements." Sidewalks shall be considered as part of the required street system, whether public or private.

(h) *Sidewalks in residential subdivisions.* Sidewalks in residential subdivisions shall be installed on both sides of the street. Off-street trails in lieu of sidewalks may be provide if such trail logistically connects to an existing trail system or sidewalk.

#### **Sec.87-37. Street paving.**

All public or private streets as provided herein shall be constructed in accordance with the "City of Sealy Minimum Construction Standards for Community Improvements."

**Sec. 87-38. Street names.**

All streets dedicated by plat shall be named, and so identified on such plat, in conformance with the following:

(a) *New streets.* New street names shall not duplicate existing street names located within the City, other than extensions of existing streets;

(b) *Extensions of existing streets.* Existing street names shall be used in those instances where a new street is a direct extension of an existing street or a logical extension (when the streets in question are not and cannot be physically continuous) thereof except in those instances where the existing street name is a duplicate street name;

(c) *Suffixes.* Street name suffixes such as court, circle and loop should be designated on streets that are cul-de-sacs or in a configuration of a loop street;

(d) *Prefixes.* Street name prefixes such as north, south, east and west may be used to clarify the general location of the street; however, such prefixes shall be consistent with the existing and established street naming and address numbering system of the general area in which the street is located; and

(e) *Alphabetical and numerical streets prohibited.* Alphabetical and numerical street names shall not be designated, except in those instances where such street is a direct extension of an existing street with such a name and is not a duplicate street name.

(f) *Street name change.* No street name once designated may be changed except by City ordinance.

**Sec. 87-39. One-foot reserves.**

In those instances where a street is established by a plat submitted to the Commission and such street forms a stub street onto adjacent unplatted acreage, or where such street lies along and parallel with the subdivision boundary and is adjacent to unplatted acreage, a one-foot wide reserve shall be established within the street right-of-way at its "dead-end" terminus, or along the right-of-way adjacent to such unplatted acreage, to form a buffer strip, dedicated to the public, between the street right-of-way and the adjacent unplatted acreage, to prevent access to such street from the adjacent unsubdivided acreage, unless and until the Commission has reviewed the development proposals for such adjacent acreage, and a plat of the adjacent property is duly recorded. The conditions associated with the establishment of a one-foot wide reserve on a plat are contained in the following notation that shall be placed upon the face of any plat where a one-foot reserve is to be established:

'One-foot reserve dedicated to the City in fee as a buffer separation between the side or end of streets where such streets abut adjacent acreage tracts, the condition of such dedication being that when the



adjacent property is subdivided pursuant to a recorded plat, the one-foot reserve shall thereupon become vested in the public for street right-of-way purposes.'

#### **Sec. 87-40. Partial or half streets.**

Partial or half streets may be dedicated in those instances where the Commission determines that it is necessary for the proper development of the land and in the public interest to locate a public street right-of-way centered on a property line. The Commission shall not approve a partial or half street dedication within a subdivision dedicating less than a fifty-foot right-of-way width for a designated arterial street, or less than a forty-foot right-of-way width for a designated collector street, or less than a thirty-foot right-of-way width for any other type public street. Appropriate notations and the one-foot reserve dedication in fee as provided in Section 87-39 hereof shall be placed upon the plat restricting access from any partial or half streets so dedicated to adjacent acreage tracts until the adjacent property is subdivided pursuant to a recorded plat and the additional adjacent right-of-way is acquired providing the full right-of-way as specified in this Chapter.

#### **Sec. 87.41. Easements.**

(a) *Utility easements.* Utility easements, both above and below grade, are those easements established by plat or separate instrument which are dedicated to the City for public use and designed to accommodate facilities necessary to provide various types of utility services to the individual properties within the plat boundaries. Utility easements may be used for, but not be limited to, facilities necessary to provide water, electrical power, natural gas, telephone, telegraph, cable television, and sanitary sewer services.

(1) *Location.* Utility easements shall be provided along the front of all lots except when the Commission determines that such location is not feasible for the orderly development of the subdivision, or where the right-of-way is not wide enough to allow for the proper placement and maintenance of all utilities. Utility easements located along the outer boundaries of a subdivision shall contain the full width required for such easement except in those instances where the adjacent property is within a portion of a previously approved and platted subdivision and under the same ownership as the property being platted or where additional easement width is dedicated by separate instrument by the owner of said adjacent tract. In such cases, one-half (1/2) of the required easement width shall be dedicated within the platted boundary with the other one-half (1/2) provided outside the platted boundary by separate instrument or through notation on the plat certifying the ownership and dedication of said easement.

(2) *Widths.* All utility easements established within any subdivision plat shall not be less than ten feet (10') in width when immediately adjacent to a public street right-of-way and not be less than sixteen feet (16') in width when not immediately adjacent to a public street right-of-way, but may be required to be greater where determined by the Director of Public Works.

(3) *Limitations.* All utility easements shall be limited to surface and below grade easements. Aerial easements over utility easements shall be limited to those necessary for electrical distribution power lines, transformers, amplifiers, and other similar devices that cannot be placed below grade, it being the express purpose and intent hereof to require all utilities, to the extent reasonably possible, to be placed below ground level, with the exception of electrical distribution lines.

(b) *Drainage easements.* All drainage easements shall be located and properly dedicated to the City to accommodate the drainage requirements necessary for the proper development of the property within the subdivision boundaries and within its natural watershed and in conformance with the City's Comprehensive Plan, its regulations governing storm drainage and/or flood control, and the requirements of other governmental agencies having jurisdiction over storm drainage or flood control within the area in which the subdivision is located. A suitable note on the plat shall restrict all properties within the subdivision to ensure that drainage easements within the plat boundaries shall be kept clear of fences, buildings, obstructive vegetation, and other obstructions to the operation and maintenance of the drainage facilities therein.

(c) *Storm water detention easements.* Each storm water detention easement shall be located and designed in accordance with applicable standards of governmental agencies having jurisdiction over surface water drainage or flood control within the area in which the proposed subdivision or development is located. Each subdivision plat that dedicates a storm water detention easement shall contain a restriction on the plat that (1) prohibits the construction of fences or buildings, whether temporary or permanent, or installation or maintenance of plantings or other obstructions to the operation and maintenance of the facility, within the storm water detention easement or upon properties adjacent thereto, and (2) prohibits drainage from abutting properties directly into the storm water detention easement except by means of a drainage structure approved by the Director of Public Works or the authorized public drainage or flood control official.

(d) *Private easements, fee strips.*

(1) *Existing easements, fee strips.* All easements or fee strips created prior to the subdivision of any tract of land shall be shown on the subdivision plat of said land with appropriate notations indicating the name of the holder of such easement or fee strip, the purpose of the easement and generally the facilities contained therein, the dimensions of the easement or fee strip tied to all adjacent lot lines, street rights-of-way and plat boundary lines, and the recording reference of the instruments creating and establishing said easement or fee strip. In those instances where easements have not been defined by accurate survey dimensions such as "over and across" type easements, the subdivider shall request the holder of such easement to accurately define the limits and location of such easement through the property within the plat boundaries. If the holder of such undefined easement does not define the easement involved and will not certify his refusal to define such easement to the Commission, the subdivision plat shall provide accurate information as to the center line location of all existing pipelines or other utility facilities placed in conformance with the easement holder's rights, and building setback lines shall be established not less than fifteen feet (15') from and parallel to both sides of the centerline of all underground pipelines or pole lines involved.

(2) *Establishment of special use utility or drainage easements.* A special use utility or drainage easement may be established by subdivision plat when such easement is for the purpose of accommodating a utility or drainage facility owned, operated, and maintained by a unit of government and is restricted to either water mains, sanitary sewers, storm sewers, or other drainage purposes and where it has been determined by the Commission that these facilities cannot or should not be accommodated within a general purpose public utility or drainage easement or public street right-of-way. Easements proposed to be established for any privately-owned utility company or private organization providing utility services and restricted for their exclusive use shall not be created by a subdivision plat; however, such private utility facilities may be accommodated and placed within the general purpose utility easements and public streets established within the plat boundary. Nothing herein, however, may prevent such private companies or the subdivider from granting and establishing special or exclusive use easements by separate instrument if such arrangements are deemed necessary to properly serve the properties within the plat boundaries.

**Sec. 87-42. Flood prevention.**

(a) No subdivision of land shall be approved unless same complies in all respects with the City's Flood Damage Prevention Regulations, as found in Chapter 38 of the City's Code. Each final plat shall have depicted thereon applicable boundaries of all flood zones as provided in the latest edition of the Federal Insurance Rate Maps.

(b) No person shall divert or impound the natural flow of surface water, or permit a diversion or impoundment to continue in a manner that damages the property of another by the overflow of the water diverted or impounded.

**Sec. 87-43. Building setback requirements.**

No plat of any subdivision shall be approved unless building setback lines are established therein in accordance with the City's applicable regulations, as found in the Chapter 28 of the City's Code.

**Sec. 87-44. Reserve tracts.**

Reserve tracts are those individual parcels of land created within a platted subdivision which are not divided into residential or commercial lots, but are established to accommodate some specific purpose such as a private recreational facility, school or church site, or site for utility facilities or other activities or land uses for which division into lots is not appropriate. Since the use of reserve tracts may not be completely determined by the subdivider or developer at the time plats are prepared and submitted to the City, these reserve tracts are often established as "unrestricted reserves" that allows maximum flexibility in the determination of the ultimate use planned for such properties.

(a) *Street access.* Reserves established on any subdivision plat shall have frontage on and be immediately adjacent to at least one street, with such frontage being

not less than sixty feet (60') in width, except for those reserves that comply with Section 87-35(f) hereof.

(b) *Identification and designation.* All reserves shall be labeled and identified on the plat, and a description of the use intended for such reserve, if known, shall be noted. If the use of the reserve is not restricted for any specific use, the reserve shall be identified and noted as being "unrestricted." All reserves are to be identified and designated by alphabetical letters, not numbers, along with an indication as to the total acreage of such reserves that shall be shown within each reserve boundary.

(c) *Special purpose reserves.* Notwithstanding any other provision contained herein or in Chapter 28 of the City's Code, special purpose reserves may be created which do not otherwise comply with minimum lot size requirements. "Special purpose reserves" shall mean tracts restricted to a use beneficial to the public or to the owners of lots within a subdivision, including but not limited to, tracts housing facilities for utilities, common area amenities such as parks, playgrounds and greenbelts, pipeline regulator stations, and community signs. The City Council shall be authorized to waive requirements contained in this Chapter, which are, because of the nature of the restricted reserve's use, deemed by the City Council as inapplicable or inappropriate. For example, the City Council would be authorized to waive the requirement that sanitary sewer service be available to a special purpose reserve that is restricted to the housing of a subdivision identification sign. Any special purpose reserve shall be identified on the plat as such, and shall contain an appropriate notation of the restrictions applicable thereto.

#### **Sec. 87-45. Lots, general provisions.**

The purpose of this Section is to provide general overall guidelines for the establishment of individual lots within a subdivision.

(a) *General lot design, arrangement, layout.* The general lot design within any subdivision shall be based upon the concept that such lots are created and established as undivided tracts of land and that purchasers of such lots can be assured that these tracts of land meet the applicable regulations, including those found in Chapter 28 of the City's Code, which are based upon the following basic criteria:

(1) That the lot is of sufficient size and shape to accommodate easements for all public and private utility services and facilities to adequately serve any residential dwelling unit constructed thereon; and.

(2) That the lot is of sufficient size and shape and is so located that direct vehicular access is provided from a public street or through an approved private street and that the required number of off-street parking spaces can be provided on the lot without encroachment within any adjacent public or private street right-of-way.

(b) *Lot shapes.* Lots shall be designed, so far as possible, with side lot lines being at right angles or radial to any adjacent street right-of-way line. Where all lots are either perpendicular and at right angles or radial to adjacent street rights-of-way, a suitable notation shall be placed upon the plat in lieu of lot line bearings.

(c) *Key or flag shaped lots.* For the purposes hereof, a key or flag shaped lot shall mean a lot having gross disparities in width between side lot lines, sometimes resembling a flag on a flag pole, a key, or some other lot shape of comparable irregularity. Key or flag shaped lots shall not be prohibited if otherwise in compliance with the minimum lot size requirements of this and other applicable regulations of the City and, provided that no portion of any such lot is less than sixty feet (60') in width.

(d) *Street access limitations.* Rear and side vehicular driveway access from lots to adjacent streets designated as major thoroughfares or any other public street which carries a traffic volume where additional vehicular driveways would create a traffic hazard or impede the flow of traffic, shall not be approved and such access restriction shall be noted directly upon the plat and adjacent to the lots in question.

(e) *Lot and block identification.* All blocks established in a subdivision shall be designated on the plat, and shall be numbered consecutively throughout the entire subdivision. Lots established within blocks shall also be numbered consecutively within the block. Lot numbering shall be cumulative throughout the subdivision if the numbering system continues from block to block in a uniform manner.

**Sec. 87-46. Minimum lot sizes.**

Lot sizes shall comply with minimum requirements set forth in the applicable ordinances of the City, including Chapter 28 of the City's Code.

**Sec. 87-47. Utilities.**

Adequate provision for all utilities shall be provided to the entire subdivision. All distribution and service lines of telephone, television, electrical and other wire-carrier type utilities shall be underground. Transformers, amplifiers, or similar devices associated with the underground lines shall be located upon the ground or below ground level. Where the underground placement of such facilities is not a standard practice of the utility involved, the subdivider or developer shall make arrangements with the applicable utility for payment of all costs associated with the non-standard installation. All utility installations shall comply with the "City of Sealy Minimum Construction Standards for Community Improvements."

**Sec. 87-48. Drainage.**

Drainage facilities shall be designed and constructed in accordance with all federal, state, and local rules and regulations as described in the City of Sealy Master Drainage Plan and in Chapter 27 of this Code, "Drainage Criteria", including the "City of Sealy Minimum Construction Standards for Community Improvements."

**Sec. 87-49. Sanitary Sewer.**

Sanitary sewer facilities shall be designed and constructed in accordance with all federal, state, and local rules and regulations, including the "City of Sealy Minimum Construction Standards for Community Improvements." Each lot within a proposed subdivision shall be connected to the sanitary sewer system of the City if any point within such subdivision is located within two thousand feet (2,000') of the City's collection system therefor. No septic tank system shall be permitted within any newly platted subdivision when connection to the City's sanitary sewer system is required hereunder.

**Sec. 87-50. Water.**

Facilities for the provision of potable water to all areas of the proposed subdivision shall be designed and constructed in accordance with the "City of Sealy Minimum Construction Standards for Community Improvements." Each lot within a proposed subdivision shall be connected to the potable water distribution system of the City if any point within such subdivision is located within two thousand feet (2,000') of the City's distribution system therefor. No water well shall be permitted within any newly platted subdivision if potable water is available from the City's system as provided herein.

**Sec. 87-51. Monuments and markers.**

(a) Concrete monuments, six inches (6") in diameter and twenty-four inches (24") long, shall be placed on all boundary corners, block corners, curve points, and angle points. A copper pin one-quarter inch (1/4") in diameter embedded three inches (3") in the monument shall be placed at the exact intersection point on the monument. The monuments shall be set at such an elevation that they will not be disturbed during construction, and the top of the monument shall not be less than twelve inches (12") below the finish ground level.

(b) Lot markers shall be five-eighths inch (5/8") or greater reinforcing bar, twenty-four inches (24") long, or approved equal, and shall be placed at all lot corners flush with the ground, or below ground if necessary in order to avoid being disturbed.

(c) Where no benchmark is established or can be found within three hundred feet (300') of the boundary of the subdivision, such benchmark shall be established to the latest edition of the U.S. Coast and Geodetic Survey datum. The benchmark shall be established upon a permanent structure, or may be set as a monument and shall be readily accessible and identifiable on the ground. Permanent benchmark(s) shall also be established in accordance with the "Minimum Construction Standards for Community Improvements".

**Sec. 87\_52.                   Dedication of land for neighborhood parks; reservation of land for public utilities.**

(a) *Purpose of land dedication requirements.*

(1) The purpose of this Section is to provide recreational areas in the form of neighborhood parks as a function of subdivision development in the City. It is hereby declared that recreational areas in the form of neighborhood parks are necessary and in the public welfare, and that the only adequate procedure to provide for such parks is by integrating such a requirement into the procedure for planning and development of property or subdivisions in the City.

(2) Neighborhood parks are those parks providing for a variety of outdoor recreational opportunities and within convenient distances from a majority of the residences to be served thereby. The Comprehensive Park Plan as adopted by the City Council shall serve as a guide for the location of neighborhood parks. The primary cost of neighborhood parks should be borne by the ultimate residential property owners who, by reason of the proximity of

their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to effect the purposes stated.

(b) *Park land dedication required; manner of dedication.*

(1) Whenever a final plat is filed of record with the county clerk of Austin County for development of a residential area in accordance with this Chapter, such plat shall contain a clear fee simple dedication of an area of land to the City for park purposes, which area shall equal one (1) acre for each one hundred (100) proposed dwelling units. Any proposed plat submitted to the City for approval shall show the area proposed to be dedicated under this Section. The required dedication of this Section may be met by a payment of money in lieu of land, the pledge of security guaranteeing a future dedication of park land, or the provision of private neighborhood park land when permitted or required by the other provisions of this Section.

(2) Subject to City Council approval, the developer of a project containing at least three hundred (300) acres which has received Land Plan approval which provides for a park area outside of the area currently being platted may, in lieu of the dedication of park land by the current plat, elect to provide an irrevocable letter of credit or other security instrument approved by the City in the amount set forth in Section 87-51(c)(3) hereof. Such letter of credit or other security instrument shall guarantee that the developer will dedicate the amount of land required by Section 87-51(b) hereof in the park area designated in the Land Plan within three (3) years after the date of the letter of credit or other security instrument. If such park land has not been dedicated by the third anniversary date of the security instrument, the City shall be entitled to collect the monies guaranteed by the instrument as a cash payment in lieu of land or allow the developer to extend the deadline for dedication of such park land to a date designated by the City. Such letter of credit or other security instrument shall be submitted to and approved by the City prior to final plat approval; provided, however, the developer may elect to record upon the final plat the following notation: "No building or other permit, except permits for construction of public improvements, will be issued by the City of Sealy, Texas, for construction within the subdivision until such time as the security instrument required under the provisions of Section 87-51(b) of this Code, has been submitted to and accepted by the City." If the developer places this notation upon the final recorded plat of the subdivision in lieu of providing the security instrument, the City shall not issue any permits for construction within the subdivision, except permits to construct public improvements, until such time as a security instrument satisfying the requirements of Section 87-51(b) hereof is submitted to and accepted by the City.

(3) In instances where an area of less than five (5) acres is required to be dedicated, the City shall accept or reject the dedication of such public park within sixty (60) days following approval of the preliminary plat after consideration by the Commission and the parks and recreation board. If the City determines that sufficient park area already is in the public domain in the area of the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks, then the proposed dedication

will be disallowed and the developer shall be required to make payment of cash in lieu of land as provided by Section 87-51(c) hereof.

(4) The dedication required by this Section shall be made by filing of the final plat or contemporaneously by separate instrument unless additional dedication is required subsequent to the filing of the final plat. If the actual number of completed dwelling units exceeds the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by Section 87-51(c)(3) hereof, or by the conveyance of an entire numbered lot to the City.

(5) Development with no more than seven residential lots shall meet the requirements of Section 87-51(b) in whole by a cash payment in lieu of land, in the amount set forth in Section 87-51(c)(3) hereof. Such payment in lieu of land shall be made at or prior to the time of final plat approval.

*(c) Cash payment in lieu of dedication of land.*

(1) Subject to approval by the City Council, a developer responsible for dedication under this Section may elect to meet the requirements of Section 87-51(b) hereof in whole or in part by a cash payment in lieu of land, in the amount set forth in Section 87-51(c)(3) hereof. Such payment in lieu of land shall be made at or prior to the time of final plat approval.

(2) The City may, from time to time, decide to purchase land for parks in or near the area of actual or potential development. If the City does purchase park land in a park zone, subsequent park land dedications for that zone shall be in cash only, and calculated to reimburse the City's actual cost of acquisition and development of such land for parks. The cash amount shall be equal to the sum of (a) the average price per acre of such land, and (b) the actual cost of adjacent streets and on-site utilities, or an estimate of such actual cost provided by the City Manager. Once the City has been reimbursed entirely for all such park lands within a park zone, this paragraph shall cease to apply, and the other subsections of this Section shall again be applicable.

(3) To the extent that Section 87\_51(c)(2) hereof is not applicable, the dedication requirement shall be met by a payment in lieu of land at a per-acre price set from time to time by resolution of the City Council, sufficient to acquire land and provide for adjacent streets and utilities for a neighborhood park to serve the park zone in which such development is located. Unless changed by the City Council, such per-acre price shall be computed on the basis of \$350.00 per dwelling unit. Cash payments may be used only for acquisition or improvement of a neighborhood park located within the same zone as the development. If the cash payment is to be used for the acquisition of land or improvement of a neighborhood park which is not located within the same zone as the development, the location of such land must be in an area that services the development and is described in the Comprehensive Park Plan as a location in need of a neighborhood park.

*(d) Provision of private park land in lieu of dedication of land.*



(1) *General criteria; amount of credit.* A developer responsible for dedication under this Section may elect to meet up to fifty percent (50%) of the requirements of Section 87\_51(b) hereof by the provision of private neighborhood park land. Credit for private park land will be governed by the following criteria:

a. The land offered as private neighborhood park land must be open and accessible to all residents of the platted subdivision. Land or facilities which are excluded to a portion of the subdivision residents will not be considered as private neighborhood park land.

b. Land which is unencumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood park land at full credit. Land which has recreation facilities on it such as tennis courts, swimming pools, playing fields, recreation buildings, etc., will also qualify for full credit.

c. Land which is encumbered by easements, detention areas, lake and drainage channel borders, or other similar characteristics will qualify for private neighborhood park land on the basis of one-third credit. Additional conditions also apply to encumbered private neighborhood park land.

1. Pipeline easements shall have an average minimum width of thirty feet (30') and a minimum width of twenty feet (20'). Hike/bike paths shall be all-weather, with landscaping and sodding installed according to the construction standards of the City. Paths must also be connected to recreational areas as part of an open space system.

2. Detention areas shall have side slopes of a 3:1 ratio unless otherwise approved by the City. A gravity flow or a pumping system shall be designed and installed, and maintained to remove all water. The bottom of the detention area shall have a minimum area of fifty feet by one hundred feet (50' x 100') in dimension unless otherwise approved by the City.

3. Drainage ditches and lake borders shall have side slopes of a 3:1 ratio unless otherwise approved by the City. The average minimum width of the border shall be thirty feet (30') and the minimum width of the border shall be twenty feet (20'). Hike/bike paths shall be all-weather, with landscaping and sodding installed according to the construction standards of the City. Paths must also be connected to recreational areas as part of an open space system.

4. Lakes will qualify for private neighborhood park land on the basis of one-sixth credit. Nature reserves, or land which is generally undeveloped and unsuitable for organized recreational activities without substantial development effort, but that does provide desirable aesthetic qualities, such as wetlands and other

wooded areas, will qualify for private neighborhood park land on the basis of one-ninth credit. Not more than fifty (50%) of the private neighborhood park land provision may be satisfied with lakes, nature reserves, or a combination of the two.

(2) *Responsibility for maintenance.* Maintenance responsibility for areas offered as private neighborhood park land must be identified with the submission of a preliminary plat.

(3) Areas less than one (1) acre. Land offered for private neighborhood park land credit which is less than one (1) acre in size is generally discouraged unless it is an integral part of the private park and open space provisions of the subdivision. A list of landscaping and other improvements of special uses planned for areas of land less than one (1) acre in size shall be submitted with the preliminary plat.

(e) *Reservation of land for public use.* Land shown in the comprehensive plan as being suitable for development of the City for a major recreation center, school site, park or other public use shall be reserved for a period of one year after the preliminary plat is approved by the City if within two (2) months after such approval the City Council advises the subdivider of its desire to acquire the land or of the interest of another government unit to acquire the land, for purchase by the interested governmental authority at land appraisal value at the time of purchase. A failure by the City Council to so notify the subdivider shall constitute a waiver of the right to reserve the land. Any waiver of the right to reserve the land shall no longer be effective if the preliminary plat shall expire without adoption of a final plat.

(f) *Disposition of funds paid in lieu of dedication of land.*

(1) *Special fund established.* There is hereby established a special fund for the deposit of all sums paid in lieu of land dedication under this Section, which fund shall be known as the park land dedication fund.

(2) *Accounting; expenditures; refunds.* The City shall account for all sums paid in lieu of land dedication under the Section with reference to the individual plats involved. Any funds paid for such purposes must be expended by the City within ten (10) years from the date received by the City for acquisition or development of a neighborhood park as defined in the Section. Such funds shall be considered to be spent on a first in, first out basis for each park zone. If not so expended, then on the last day of such period the then-current owners of the property for which money was paid in lieu of land dedication shall be entitled to a pro rata refund of such sum, computed on a square footage of area basis. The owners of such property must request such refund within one year of entitlement, in writing, or such right shall be barred.

(g) *Additional requirements for park land.*

(1) *Unsuitable land.* Any land dedicated to the City or provided as private neighborhood park land under the Section must be appropriate for park and recreation purposes. The City reserves the right to reject any land which it deems as unsuitable for such purposes.

(2) **Acceptance of drainage areas.** Drainage areas may be accepted

(3) **Street access.** Each park must have ready access to a public

(4) *Review of proposals.* Unless provided otherwise in this Section, the City Council shall consider the

**Secs. 87-53 – 87-60. Reserved.**

## PART IV. SPECIAL PROVISIONS

**Sec. 87-61. Dedication statements and certificates.**

All dedication statements and certificates shall be made a part of the final plat drawing and shall include, but not be limited to, the statements, the general form and content of which are provided below:

(a) **Owner's Acknowledgment:**

THE STATE OF TEXAS                    §

22

COUNTY OF AUSTIN                      §

20

I (or we), (name of owner or owners) acting by and through (name and title of officer) being officers of (name of company or corporation), owner (or owners) hereinafter referred to as owners (whether one or more) of the (number of acres) acre tract described in the above and foregoing plat of (name of subdivision or development), do hereby make and establish said subdivision of said property according to all liens, dedications, restrictions and notations on said plat and hereby dedicate to the use of the public forever, all streets, alleys, parks, watercourses, drains, easements, and public places shown thereon for the purposes and considerations therein expressed; and do hereby bind myself (or ourselves), my (or our) heirs, successors and assigns to warrant and forever defend the title to the land so dedicated.

**FURTHER, owners have dedicated and by these presents do dedicate to the use of the public for public utility purposes forever an unobstructed aerial easement five feet (5') in width from a plane twenty feet (20') above the ground level upward, located adjacent to all public utility easements shown hereon.**

**Additional paragraphs to be added as appropriate and as follows:**

(When estate subdivisions are created, which will not be required to have cement or concrete streets, gutters, or storm sewers.)

FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat shall be restricted to provide that drainage structures under private driveways shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater and in no instance have a drainage opening of less than one and three quarters square feet (18-inch diameter) with culverts or bridges to be provided for all private driveways or walkways crossing such drainage facilities.

(When plat contains natural drainage ways such as bayous, creeks, gullies, ravines, draws, or drainage ditches.)

FURTHER, owners do hereby dedicate to the public a strip of land fifteen feet (15') wide on each side of the center line of any and all bayous, creeks, gullies, ravines, draws, sloughs, or other natural drainage courses located and depicted upon in said plat, as easements for drainage purposes, giving the City of Sealy, Austin County, or any other governmental agency, the right to enter upon said easement at any and all times for the purpose of construction and maintenance of drainage facilities and structures.

FURTHER, owners do hereby covenant and agree that all of the property within the boundaries of this plat and adjacent to any drainage easement, ditch, gully, creek, or natural drainage way shall hereby be restricted to keep such drainage ways and easements clear of fences, buildings, planting, and other obstructions to the operation and maintenance of the drainage facility and that such abutting property shall not be permitted to drain directly into this easement, except by means of an approved drainage structure.

*(b) Execution of Owner's Acknowledgment.*

*(1) When Owner is an individual or individuals.*

WITNESS may (or our) hand in the City of Sealy, Texas, this (number) day of (month), (year).

\_\_\_\_\_  
(Signature of owner or owners)  
(Names to be printed)

*(2) When Owner is a company or corporation.*

IN TESTIMONY WHEREOF, the (name of company) has caused these presents to be signed by (name of president), its President, thereunto authorized, attested by its secretary (or authorized trust officer), (name of Secretary or authorized trust officer), and its common seal hereunto affixed this (number) day of (month), (year).

(Name of Company)

By: \_\_\_\_\_  
(Signature of President)  
President

ATTEST:

By: \_\_\_\_\_

(Signature of Secretary or authorized trust officer)

Title

(

Affix corporate Seal)

(3) All owners' signatures shall be acknowledged by a Notary Public.

(c) *Lienholder's Acknowledgment and Subordination Statement.*

Note: Holders of all liens against the property being platted must execute the final plat or prepared as separate instruments, which shall be filed for record with the plat.

I, (or we), (name of mortgagee or names of mortgagees), owner and holder (or owners and holders) of a lien (or liens) against the property described in the plat known as (name of plat), said lien (or liens) being evidenced by instrument of record in Volume \_\_\_\_\_, Page \_\_\_\_\_, (or Film Code No. \_\_\_\_\_) of the Mortgage Records of (name of county in which the plat is located), Texas, do hereby in all things subordinate our interest in said property to the purposes and effects of said plat and the dedications and restrictions shown herein to said plat and I (or we) hereby confirm that I am (or we are) the present owner (or owners) of said lien (or liens) and have not assigned the same nor any part thereof.

By: \_\_\_\_\_  
(Signature of Lienholder)  
(Name to be printed)

Note: All lienholder signatures shall be acknowledged by a Notary Public.

(d) *Notary Public Acknowledgment for All Signatures.*

THE STATE OF TEXAS       §

§

COUNTY OF AUSTIN       §

BEFORE ME, the undersigned authority, on this day personally appeared (names of persons signing the plat, owners, corporation officers, and lienholders, (corporation title, if appropriate), known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and considerations therein expressed (all for corporation, "and in the capacity therein and herein stated, and as the act and deed of said corporation").

GIVEN UNDER MY HAND AND SEAL OF OFFICE this (number) day of (month), (year).

\_\_\_\_\_  
(Signature of Notary Public)

Notary Public In and For the State of Texas  
My Commission Expires:

(Affix notary seal)

(e) *Certificate for Civil Engineer or Surveyor.*

I, (name of civil engineer or surveyor), am authorized (or registered) under the laws of the State of Texas to practice the profession of civil engineering (or surveying) and hereby certify that the above subdivision is true and correct; was prepared from an actual survey of the property made under my supervision on the ground; that all boundary corners, angle points, points of curvature, and other points of reference have been marked with iron (or other suitable permanent metal) pipes or rods having an outside diameter of not less than three-quarter inch (3/4") and a length of not less than three feet (3'); and that the plat boundary corners have been tied to the nearest survey corner.

\_\_\_\_\_  
(Signature of registered public surveyor)  
(Print Name)  
Texas Registration No. \_\_\_\_\_

(Affix seal)

(f) *Certificate for Planning Commission.*

This is to certify that the Planning Commission of the City of Sealy, Texas, has approved this plat and subdivision of (name of subdivision) in conformance with the laws of the State of Texas and the ordinances of the City of Sealy as shown hereon and authorized the recording of this plat this (number) day of (month), (year).

By: \_\_\_\_\_  
(Signature of chairman or vice chairman)  
Chairman or Vice Chairman  
By: \_\_\_\_\_  
(Signature of Secretary)  
Secretary

(g) *Certificate for City Council.*

This is to certify that the City Council of the City of Sealy, Texas, has approved this plat and subdivision of (name of subdivision) in conformance with the laws of the State of Texas and the ordinances of the City of Sealy as shown hereon and authorized the recording of this plat this (number) day of (month), (year).

By: \_\_\_\_\_  
(Signature of Mayor)  
Mayor  
By: \_\_\_\_\_  
(Signature of City Secretary)  
City Secretary

(h) *County Clerk Filing Acknowledgment Statement.*

I, (name of county clerk), County Clerk of Austin County, Texas, do hereby certify that the within instrument with its certificate of authentication was filed for registration in my office on (date and month), (year), at (time) o'clock (a.m. or p.m.), and in Volume (number), Page (number or, when applicable, Film Code numbers) of the map records of Austin County for said County.

Witness my hand and seal of office, at Austin County, Texas, the day and date last above written.

\_\_\_\_\_  
Ex Officio Clerk of Austin County, Texas

By: \_\_\_\_\_ Deputy

(i) *Encumbrances Certificate.*

(Preliminary Plats)

Note: The following paragraph is to be placed on the face of all preliminary plats to be filed separately with the materials required to be submitted with plats requesting preliminary approval.

I, (name of applicant or person who prepared the plat), do hereby certify that all existing encumbrances, such as various types of easements both public and private, fee strips, and all significant topographical features which would affect the physical development of the property illustrated on this plat are accurately identified and located and further certify that this plat represents all of the contiguous land which the (owner of subdivider) owns or has a legal interest in. (In those instances where the owner or subdivider owns or has a legal interest in any adjacent property, this paragraph must be modified to reflect the extent of such ownership and a boundary description of the land involved must be provided.)

\_\_\_\_\_  
(Signature of certified public surveyor who prepared the plat)  
(Name to be Printed)

(i) *Vacation of Subdivision Plat.*

THE STATE OF TEXAS       §

§

COUNTY OF AUSTIN       §

I (or we), (name of owner or owners if individuals) or (name of president and secretary or authorized trust officer of a company or corporation), being the sole owner (owners) and proprietor of the following described property in the City of Sealy, Texas, to wit:

(Provide legal description of the property including, but not limited to, the acreage, the name of the recorded subdivision, the name of the Survey and Abstract Number, and recording references)

do hereby desire and declare that said plat, subdivision and dedication thereon be vacated and cancelled so as to convey all of said platted property to acreage tracts as same existed before such property was platted, subdivided, and recorded.  
(At this point any rights-of-way, easements, or any other feature established in the subdivision being vacated, which will not be cancelled as a result of this vacation action, should be described.)

(k) *Amending Plat Certificates*

Note: The following certificates and acknowledgments are required to be placed upon the face of all amended plats.

(I, (name of civil engineer or surveyor), hereby certify that the following corrections were necessary to eliminate errors which appear on the plat of (name of subdivision), recorded on (date and month), (year), in Volume (number), Page (number or, when applicable, Film Code numbers) of the map records of Austin County, Texas:

(Provide brief explanation of corrections required.)

\_\_\_\_\_  
(Signature of registered public surveyor)  
(Print Name)

Texas Registration No. \_\_\_\_\_

(Affix seal)

I, (we), (name[s] or owner[s]), owners(s) of the property directly affected by this amending plat, being lot(s) \_\_\_\_\_ out of the block(s) \_\_\_\_\_ as indicated hereon, do hereby consent to this amending plat for the purposes herein expressed.

\_\_\_\_\_  
(Signature of Owner[s])  
(Print name)

Note: All owners' signatures shall be acknowledged by a Notary Public.

APPROVED BY THE CITY OF SEALY, TEXAS, PLANNING COMMISSION on  
(date, month, and year).

\_\_\_\_\_  
(Signature of chairman or vice chairman)  
(Print name)  
Chairman or Vice Chairman

\_\_\_\_\_  
(Signature of secretary)  
(Print name)  
Secretary

(Affix Commission Seal)

APPROVED BY THE CITY OF SEALY, TEXAS, CITY COUNCIL on (date, month, and year).



\_\_\_\_\_  
(Signature of Mayor)

(Print name)

Mayor

(Affix City Seal)

\_\_\_\_\_  
(Signature of City Secretary)

(Print name)

City Secretary

#### **Sec. 87-62. Restrictive covenants.**

An executed and notarized copy of the final restrictive covenants to govern the nature and use of property within the subdivision shall be submitted. In the public interest, the Commission and the City Council shall require that such restrictive covenants, if any, be filed simultaneously with the final plat and be executed by all parties executing the final plat other than the City. The City shall file for recording with the County Clerk of Austin County, Texas, as applicable, the original copy of such restrictive covenants, if any, concurrently with the filing of the plat in accordance with Section 87-18 hereof. A certified copy of the original restrictions, if any, shall be retained by the City.

#### **Sec. 87-63. Construction plans.**

Construction plan and profile sheets for all subdivision improvements, public or private, shall be submitted with the application for Final Plat Approval. All such plans and profile sheets shall be signed and sealed by a Texas Registered Professional Engineer. The approval of the Final Plat shall be contingent upon approval of construction plans by the **Director of Public Works**, or his designee. Further, the approval of a Final Plat shall be contingent upon the construction of such improvements in accordance with such approved construction plans. Construction plans shall be submitted in accordance with the provisions of the "City of Sealy Minimum Construction Standards for Community Improvements."

#### **Sec. 87-64. Inspection of construction.**

The **Director of Public Works** shall be required to fully inspect any and all phases of the construction of improvements for each subdivision. The subdivider, or his contractor, shall maintain daily contact with the **Director of Public Works** during construction of improvements. No sanitary sewer, water, or storm sewer pipe shall be covered without written approval of the **Director of Public Works**, no flexible base material, subgrade material, or stabilization shall be applied to the street subgrade without said written approval, and no concrete shall be poured or asphaltic surface applied to the base without said written approval. The **Director of Public Works** may at any time cause any construction, installation, maintenance, or location of improvements to cease when, in his judgment, the requirements of this Chapter or the standards and specifications as hereinbefore provided have been violated, and may require such reconstruction or other work as may be necessary to correct any such violation. The subdivider shall engage a Registered Professional Engineer who shall be in "responsible charge" of all phases of

the design and construction of the required public improvements. For the purposes of this Section, the "Director of Public Works" shall include his designee.

**Sec. 87-65. Guarantee of performance.**

No subdivision plat shall be filed of record with the County Clerk of Austin County, Texas and no building permit, or any water, sewer, plumbing, or electrical permit shall be issued by the City to the owner or any other person with the respect to any property in any subdivision until the earlier of:

(a) Such time as the subdivider or developer of such subdivision has complied with all provisions of this Chapter and such conditions of the City Council applicable to the final plat regarding installation of all required improvements and for which required improvements the subdivider or developer has received acceptance by City Council for the start of the one (1) year maintenance period as described in Section 87-66 below; or

(b) Such time as an escrow deposit sufficient to pay for one hundred ten percent (110%) of the estimated cost of such improvements as determined by the Director of Public Works computed on a private commercial rate basis has been made with the City Secretary accompanied by an agreement by the subdivider or developer authorizing the City to make such improvements at prevailing private commercial rates or have the same made by a private contractor and pay for the same out of the escrow deposit, should the subdivider or developer fail or refuse to install the required improvements within the time stated in such written agreement. Such deposit may be used by the subdivider or developer as progress payments as the work progresses upon written certification by the Director of Public Works that work for which payment is sought has been completed and that sufficient funds remain in the escrow account to complete the work. Any and all funds remaining from any such escrow deposit upon completion of the work and acceptance thereof by City Council shall be promptly released by the City to the depositor; or

(c) Such time as the subdivider or developer files a corporate surety bond with the City Secretary executed by a surety company licensed to do business in the State of Texas and acceptable to the City, in an amount equal to one hundred ten percent (110%) of the cost of installation of all required improvements as determined by the Director of Public Works computed on a private commercial rate basis, guaranteeing the installation of such required improvements by the subdivider or developer within the time stated in the bond, which time shall be fixed by the City Council.

(d) Such time as the subdivider or developer files an irrevocable letter of credit with the City Secretary, in a form approved by the City, and issued by a banking institution licensed to do business in the State of Texas and acceptable to the City, in an amount equal to one hundred ten percent (110%) of the cost of installation of all required improvements as determined by the Director of Public Works computed on a private commercial rate basis, guaranteeing the installation of such required improvements by the subdivider or developer within the time stated in the letter of credit, which time shall be fixed by the City Council.

**Sec. 87-66. Maintenance of dedicated improvements.**

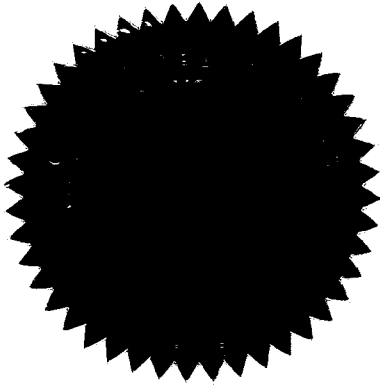
Disapproval of a plat shall be deemed a refusal to accept the offered dedications shown thereon. Approval of the plat shall not impose any duty upon the City concerning the maintenance of improvements of any dedicated parts indicated thereon until the City Council, after inspection and recommendation by the **Director of Public Works**, shall have accepted same by resolution expressing such acceptance. The subdivider or developer shall maintain all such improvements for a period of one (1) year following such acceptance by City Council; however, such one-year period of required maintenance shall not begin until there has been filed with the City Secretary either a maintenance bond, executed by a surety company licensed to do business in the State of Texas and acceptable to the City Council, in an amount equal to fifty percent (50%) of the cost of installation of such improvements, warranting that said improvements will render satisfactory operation for such one-year period, or an irrevocable letter of credit, or a cash bond, in an amount equal to fifty percent (50%) of the cost of installation of such improvements, likewise warranting that said improvements will render satisfactory operation for such one-year period."

Section 3. Penalty. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 4. Severability. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Sealy, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED AND APPROVED on first reading this 14<sup>th</sup> day of October 2009.

PASSED, APPROVED, AND ADOPTED on second and final reading this 28<sup>th</sup> day of  
October 2009.



  
\_\_\_\_\_  
Nick Tirey, Mayor

ATTEST:

  
\_\_\_\_\_  
Krisha Langton, City Secretary