

## 4.9 Access and Circulation

### COMMENTARY

This is generally a new section for the City's consideration; all provisions are new unless otherwise noted. This section consolidates standards related to access and circulation to give them more consistency and prominence in the LDO. While some existing New Braunfels regulations address issues of connectivity (including the subdivision design standards and the non-residential and multifamily design standards), they are minimal and could be strengthened.

This section is included in the general development standards, versus the subdivision standards, so that many of these improvements will be applied to redevelopment projects and individual sites, not just new subdivisions. The subsections cover vehicular, pedestrian, and bicycle connectivity independently.

The current Chapter 114 (Streets, Sidewalks and Other Public Places) addresses some related issues including sidewalk encroachment and automobile access on public roadways. Pending additional discussion, this draft text does not carry forward any regulations from Chapter 114, since that chapter was not proposed for consolidation into the new unified LDO. However, we note that a staff comment included in the Assessment Report noted "Obstructions in r-o-w in the downtown area vs outside downtown - items prohibited, items allowed by right, etc. needs to be reevaluated including the process and ensuring conformance to court rulings regarding signage." We believe that may require edits to Chapter 114 outside the LDO.

### 4.9.1 Purpose

The purpose of this section is to support the creation of a highly connected transportation system within the City in order to:

- A. Support the goals of *Envision New Braunfels* that call for better connectivity for all modes of transportation to improve access to green space, enhance the tourism experience, and support vibrant urban centers;
- B. Promote multimodal travel by providing options for automobiles, bicycles, pedestrians, and future transit;
- C. Connect neighborhoods to each other and to local destinations such as employment, schools, parks, and shopping centers;
- D. Reduce vehicle miles of travel and travel times;
- E. Reduce emergency response times;
- F. Mitigate the traffic impacts of new development and redevelopment;
- G. Improve air quality; and
- H. Reduce stormwater runoff, reduce heat island effect from large expanses of pavement, improve water quality, and minimize dust pollution.

### 4.9.2 Applicability

Except as otherwise provided in this section, the standards of this section shall apply to all development.

### 4.9.3 Circulation Plan

- A. All development, except for one- to four-family residential uses within previously platted subdivisions, shall prepare a circulation plan. The circulation plan shall be submitted with the respective site plan or subdivision application, as appropriate.
- B. The circulation plan shall meet the requirements of the Transportation and Capital Improvements Department and shall address, at a minimum: street connectivity, emergency and service vehicle access, parking movements, accommodation of loading and unloading operations, turning radii,

traffic calming measures where future “cut-through” traffic is likely, and similar issues identified by the Planning and Development Services Department.

C. The Transportation and Capital Improvements Department may waive the requirement for a circulation plan upon determining that a proposed development is expected to have no impact on circulation because it proposes no change in existing circulation patterns, such as additional parking, driveways, or substantial modifications to the existing pedestrian network. A development proposal that includes any of these changes shall not be exempt from the requirement of providing a circulation plan.<sup>155</sup>

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#### 4.9.4 Streets, Alleys, and Vehicular Circulation

##### A. Purpose

Street and block patterns should include a clear hierarchy of well-connected streets that distribute traffic over multiple streets and avoid traffic congestion on principal routes. Within each development, the access and circulation system should accommodate the safe, efficient, and convenient movement of vehicles, bicycles, and pedestrians through the development, and provide ample opportunities for linking adjacent neighborhoods, properties, and land uses. Local neighborhood street systems are intended to provide multiple direct connections to and between local destinations such as parks, schools, and shopping.

##### B. Uniform Street Standards

All streets and related improvements shall be constructed in accordance with the standards in the Thoroughfare Plan and current engineering design standards.

##### C. Layout and Design

1. The street pattern shall be designed to afford safe and convenient access to all lots.
2. The street pattern shall have a logical relationship to topography.
3. Where a proposed development borders an existing principal or minor arterial, new street intersections with the existing arterial street shall be at intervals of one-quarter mile or greater to prevent intersections from being close together, unless small spacing is approved by the Transportation and Capital Improvements Department.
4. Bicycle lanes are required in the design of all arterial and collector streets where low traffic speeds and volumes allow bicyclists and motorists to share the road safely, as prescribed in the Thoroughfare Plan.

##### D. Street Connectivity

###### 1. Street Standards

- a. The vehicular access and circulation network for a new residential development shall continue and connect public streets and associated rights-of-way that extend or connect to the boundary of the development site from existing or approved abutting developments.
- b. The vehicular access and circulation network for a development shall provide for the extension or connection of proposed internal public streets and associated rights-of-way to the boundaries of the development site whenever such extensions or connections are or may be necessary to ensure that the development site or the abutting property will have:
  - i. Convenient and efficient access by vehicles needed to provide police, fire, and emergency services;

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<sup>155</sup> Is the Transportation and Capital Improvements Department the correct decision-making authority for this provision?

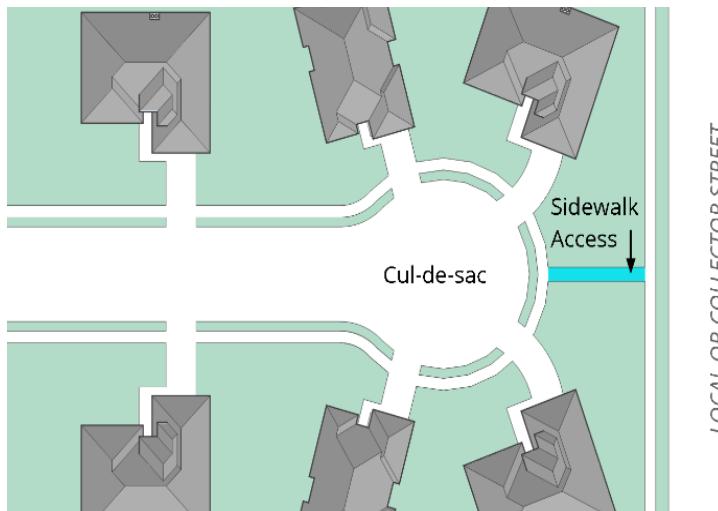
- ii. Convenient and efficient access by vehicles needed to provide other public services; and
- iii. At least two vehicular access points to and from to and from the street system outside the development boundaries, preferably connecting to two separate streets (for new developments of at least 30 residential lots).
- c. An extension or connection of a public street roadway and right-of-way to an abutting property shall also extend or connect any integrated bikeways and sidewalks.
- d. The Planning and Development Services Department and/or the Transportation and Capital Improvements Department may require a temporary turnaround at the end of a roadway extension if needed to facilitate traffic flow or to accommodate solid waste and emergency vehicles pending the roadway's connection to other roadways.
- e. The Planning and Development Services Department and/or the Transportation and Capital Improvements Department may waive or modify the requirements or standards for extension or connection of a public roadway from or to an abutting property if such extension is impractical or undesirable because it would:
  - i. Require crossing a significant physical barrier or environmentally sensitive area (e.g., watercourses, floodplains, riparian areas, steep slopes; wildfire hazard areas);
  - ii. Require the extension or connection of a proposed internal public street to an abutting property with existing development whose design makes it unlikely that the street will ever be part of a network of public streets (for example, the abutting existing development has no public streets, or there are no "stubbed-out" street rights-of-way or open corridors between the proposed development site and public streets in the abutting development to accommodate a current or future extension or connection); or
  - iii. Require the extension or connection of a proposed internal public street to an abutting property owned by a government or public utility to which vehicular access is restricted, or other property to which vehicular access is restricted by public easement or deed.

**2. Culs-de-sac and Dead-End Streets**

- a. Permanent culs-de-sac and dead-end streets shall generally be used only when topography, the presence of natural features, and/or vehicular safety factors make a vehicular connection impossible. Such culs-de-sac and dead-end streets shall comply with the City's Engineering Standards.

- b. Where residential developments have culs-de-sac or dead-end streets, such streets shall be connected to the closest local or collector street or to culs-de-sac in adjoining subdivisions via a sidewalk or multi-use path. See Figure 4.9.4-1.

**Figure 4.9.4-1: Sidewalk Access for Cul-De-Sac or Dead-End Streets**



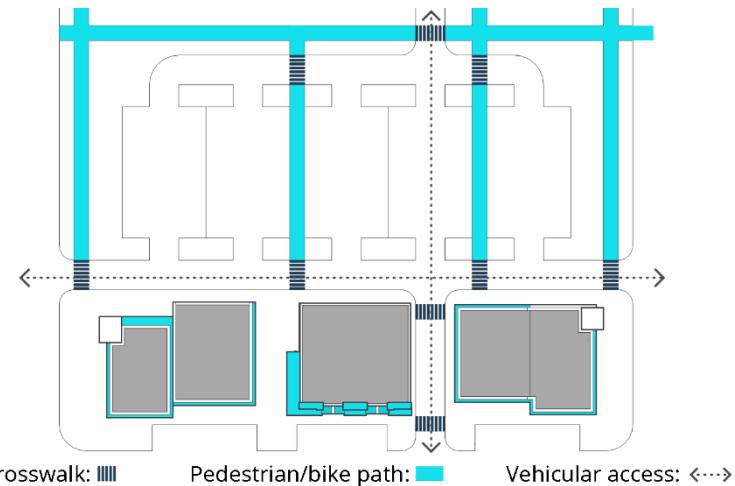
### 3. Cross Access Between Abutting Development

To facilitate vehicular, pedestrian, and bicycle access between abutting developments, encourage shared parking, and minimize access points along streets, new single-family attached, multi-family, non-residential, and mixed-use development shall comply with the following standards:

- a. The internal circulation system shall be designed to allow for cross-access between the development's common use areas and common use areas in an abutting single-family attached, multi-family, non-residential, or mixed-use development, or to the boundary of abutting vacant land zoned to allow single-family attached, multi-family, non-residential or mixed-use development. See Figure 4.9.4-2.
- b. Required vehicular cross access between abutting lots shall be provided by a frontage or service street (if the lots front on a major arterial thoroughfare right-of-way), a single two-way driveway or drive aisle, or two one-way driveways or aisles that are sufficiently wide to accommodate traffic by automobiles, service vehicles, loading vehicles, and emergency vehicles.
- c. The Planning and Development Services Department, in conjunction with the Transportation and Capital Improvements Department, may waive or modify the requirement for cross access upon determining that such cross access is impractical or undesirable because it would require crossing a significant physical barrier or environmentally sensitive area (e.g., railroad, watercourse, floodplain, wetlands, steep slopes), or would create unsafe conditions or impede the application of other design requirements in this LDO.

- d. Easements allowing cross access to and from properties served by a vehicular, pedestrian, or bicycle cross-access, along with agreements defining maintenance responsibilities of property owners, shall be recorded with the County Clerk before issuance of a building permit for the development.<sup>156</sup>

**Figure 4.9.4-2: Internal Circulation System for Cross Access**



## E. Use and Maintenance

1. Access and circulation routes are intended to provide pedestrian, bicycle, and vehicle access. Vehicle parking, garbage containers, merchandise storage or display, utility boxes and poles, signs, and other obstructions shall not encroach into the required minimum width of any required access or circulation route, unless otherwise authorized by this LDO.
2. Access and circulation routes required by this LDO shall be maintained in usable condition throughout the year.

## 4.9.5 Driveways and Access to Lots

### A. General

1. Every lot shall have access that provides a means of ingress and egress for emergency vehicles, as well as for those needing access to the property in its intended use.
2. All driveway entrances and other openings onto streets shall be constructed so that:
  - a. Vehicles may safely enter and exit from the lot in question; and
  - b. Interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized;
  - c. Joint driveways are utilized whenever possible in order to minimize the number of access points to streets and access easements.
3. Driveways located near intersections shall maintain the vision clearance areas as required by §1.1., and the Transportation Technical Standards.

<sup>156</sup> This recording could be done with an associated plat or as a separate instrument.

**B. Location****1. Residential**

In addition to the above general requirements, all residential development shall be subject to the following:

- a. There shall be no direct driveway access (ingress or egress) from any one- to four-family residential lot to any arterial street or highway unless no other legal access alternative is available.
- b. Access to collector or major thoroughfare streets shall not be allowed for residential lots that require backing maneuvers onto a street. Residential lots having direct access on a collector or major thoroughfare streets may be platted only if:
  - i. All lots are greater than one acre in size, have a minimum lot frontage of 100 feet, and provide for permanent vehicular turnaround on the lot to prevent backing onto the street. A note shall be placed on the plat stating a permanent vehicular turnaround shall be provided on each lot to prevent a vehicle from backing onto the street.
  - ii. Access points which would permit vehicular access to lots less than one acre in size may be allowed if a marginal access street or easement to serve two or more lots spaced a minimum of 200 feet apart and 200 feet from an existing driveway or street is constructed. The marginal access street or easement shall be designed to prevent a vehicle from backing onto collector or major thoroughfare streets.
  - iii. The street is classified as a residential collector with a minimum of 36 feet of pavement, has daily traffic volumes of less than 2,000 vehicles per day, and includes traffic calming measures.
  - iv. The street is classified as a residential collector with a minimum of 40 feet of pavement, has daily traffic volumes of less than 4,000 vehicles per day, and includes traffic calming measures.
- c. Multi-family development sites greater than five acres shall include a minimum of two through-access drives. The Board of Adjustment may approve a variance to this requirement where a site is landlocked by existing development or other physical constraints, or where existing natural features on the site require the use of protective measures that would otherwise make a second access drive infeasible. See §X.X., *Variance*.
- d. Driveways shall have a minimum setback of five feet from side lot lines. This requirement shall not apply to zero-lot-line or rowhouse developments, provided there is a five-foot wide landscaping strip between driveways.

**2. Non-Residential and Mixed-Use Development**

In addition to the above general requirements, all non-residential and mixed-use buildings, structures, and parking and loading areas shall be subject to the following:

- a. Driveways and access ways shall be physically separated from all non-arterial or collector streets by vertical curbs and other suitable barriers and landscaping to prevent unchanneled motor vehicle access. Each property shall not have more than two access ways to any one street unless approved by the Transportation and Capital Improvements Department.
- b. Driveways and access ways shall be located a minimum of two feet from an interior side property line unless prior approval has been obtained from the adjoining property owner and recorded as required. Where driveways are located parallel and adjacent to a side street property line, a minimum of five feet shall be provided between the surface and the property line.

**C. Removing or Relocating Driveways**

1. Where the removal or relocation of one or more existing driveways or portions of driveways is necessary to comply with this LDO, any driveway or portion of driveway that is removed shall be replaced with the installation of curb and gutter along the gutter line of the street, in

accordance with Public Works and/or Transportation and Capital Improvements Department specifications.

2. If there is no existing curb and gutter on the street, the driveway shall be removed in the manner specified by the Transportation and Capital Improvements Department.
3. The removal or relocation of one or more existing driveways or portions of driveways shall require the developer to maintain or improve drainage patterns to meet the standards of this LDO.
4. The removal or relocation of a driveway shall also require the installation of landscape treatments for that portion of the site pursuant to the standards in this LDO.

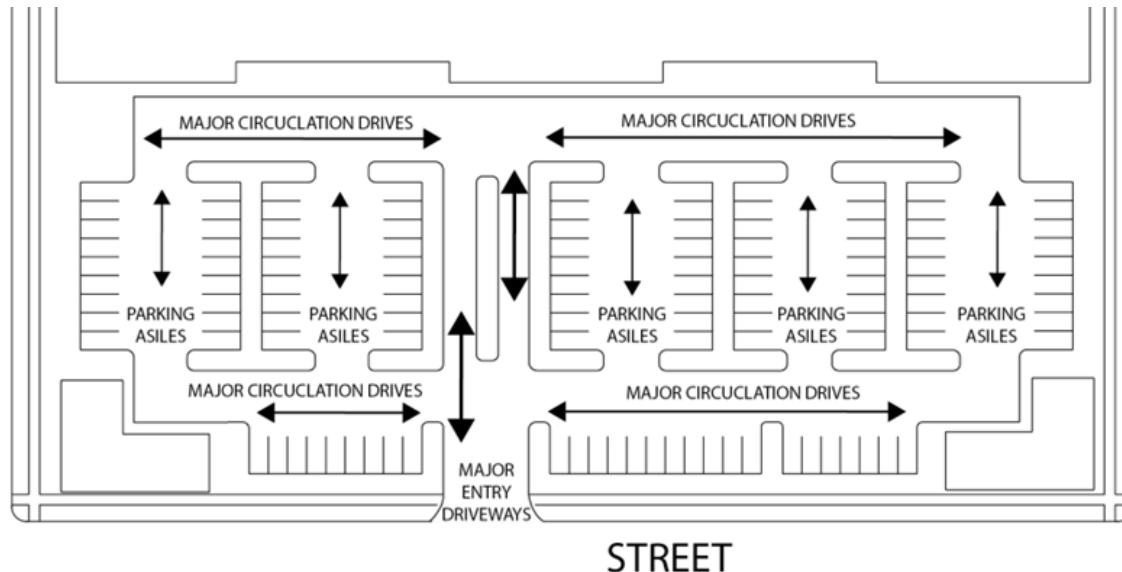
#### **D. Surfacing**

1. All driveways and access drives to improved parking surfaces shall be constructed as a continuous improved surface of concrete, brick pavers, pavestone, or other approved surfacing material designed to support vehicular weight and installed on an approved base course or other hard surfaced durable material designed to support vehicular weight approved by the Transportation and Capital Improvements Department.
2. **Driveway surfacing for one- to four-family residential may consist of two strips or ribbons of concrete under the tire pathways, with grass in between and on the outsides of the paved strips.**
3. Driveways and improved parking surfaces shall be designed and constructed in compliance with the improved driveway standards of the City.

#### **E. Vehicle Maneuvering**

1. Except for one- to four-family residential uses, groups of more than five vehicle parking spaces per lot shall be provided with adequate aisles or turn-around areas so that all vehicles may enter the public right-of-way in a forward manner. See Figure 4.9.5-1.

**Figure 4.9.5-1 Vehicle Maneuvering**



2. Except for one- to four-family residential uses, more than five vehicle parking spaces shall be served by a driveway designed and constructed to facilitate the flow of traffic on or off the site, with due regard to pedestrian, bicycle, and vehicle safety, and shall be clearly and permanently marked and defined.

3. Vehicle parking lots exceeding one drive aisle and 75 spaces shall be designed with a clear hierarchy of circulation. The hierarchy shall consist of 
  - a. Major entry driveways without parking spaces; then
  - b. Major circulation drives with little or no parking; then
  - c. Parking aisles for direct access to parking spaces.

**F. Marginal Access Street or Easement**

Where a developer furnishes a marginal access street or easement, it shall be designed to allow for emergency access, on-street parking, sidewalk connection to the collector or major thoroughfare street, and solid waste operations that do not require backing within the marginal access street or easement.

**G. Vision Clearance<sup>157</sup>**

For all lots on which a front setback or build-to is required:

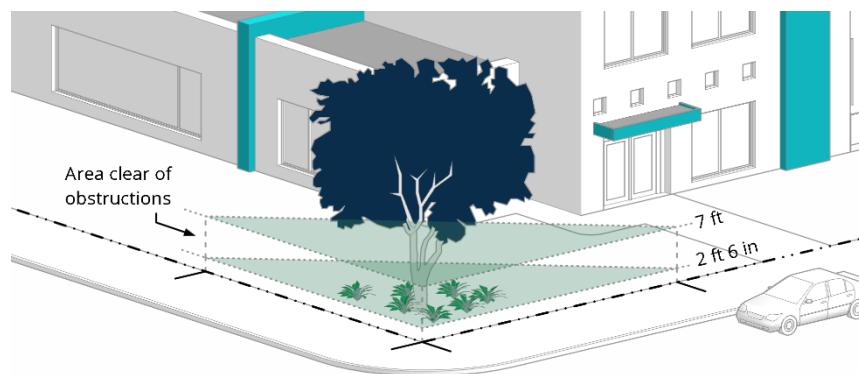
1. No obstruction over 18 inches that will obscure or partly obscure the view of vehicle drivers shall be placed within the triangular area formed by joining points measured 35 feet along the property line from the intersection of two streets. See Figure 4.9.5-1.
2. No obstruction over 30 inches that will obscure or partly obscure the view of vehicles drivers shall be placed within the triangular area determined by site-specific AASHTO standards.
3. This restriction shall not apply to traffic control signs and signals, street signs, or utility poles placed within such area by the City or State.
4. The use of plant material in a vision clearance area is intended to provide aesthetic appeal while not unduly limiting or restricting visibility, whether as a pedestrian or a passenger in a vehicle. Plants shall not reduce or limit visibility to such an extent that a safety hazard is presented as determined by the Transportation and Capital Improvements Department. Plants normally considered as effective screens shall not be allowed within a vision clearance area unless adequately and routinely maintained to meet the above measurement criteria.
5. Trees may be placed within the vision clearance area with approval by the Planning and Development Services Department and shall be single trunked and have a minimum branching clearance of six feet from the ground to the first branch.
6. Vertical measurement shall be made from the top of the curb on the street adjacent to the nearest street of the vision clearance triangle or, if no curb exists, from the edge of the nearest traveled way.<sup>158</sup>

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<sup>157</sup> Replaces more general material in 144-5.21-1(d) of the New Braunfels Municipal Code.

<sup>158</sup> Staff questions if the measurement when no curb exists should be from a higher point than the nearest traveled way to account for views from tall vehicles.

Figure 4.9.5-1 Vision Clearance Measurement



## 4.9.6 Pedestrian Circulation

### COMMENTARY

The current chapter 144 requires that non-residential and multi-family development provide "pedestrian routes between parking areas and building entrances" but does not include any standards or requirements for such routes and does not address pedestrian access to and from the site or surrounding area.

#### A. Sidewalks

Sidewalks shall be installed on both sides of all streets and within and along the frontage of all new development or redevelopment, as required by the Thoroughfare Plan.

##### 1. Where Required

- a. Sidewalks shall be provided by the developer to allow convenient pedestrian access through or across the development and joining with pedestrian ways of adjacent properties.
- b. Sidewalks shall be installed on both sides of all arterials, collector streets, and local streets, and within and along the frontage of all new development and redevelopment.

##### 2. When Required<sup>159</sup>

[reserved]



##### 3. Design and Materials

Sidewalks shall be constructed in accordance with the Thoroughfare Plan and current engineering design standards.

#### B. On-Site Pedestrian Walkways

All multi-family, non-residential, and mixed-use development shall provide an on-site system of pedestrian walkways that meets the following standards:

##### 1. Areas to Connect

On-site pedestrian walkways shall provide direct access and connections to and between:

- a. The primary entrance or entrances to each building, including pad-site buildings;

<sup>159</sup> Fill this out as part of the procedures installment. Currently, only platting triggers sidewalk installation, but the City intent is to broaden that to zoning and building permitting, also.

- b.** Any sidewalks, walkways, or multi-use paths on adjacent properties that extend to the boundaries shared with the development;
- c.** Any parking areas intended to serve the development;
- d.** Any sidewalk system along the perimeter streets adjacent to the development;
- e.** Any public transit station areas, transit stops, park and ride facilities, or other transit facilities on-site or along an adjacent street; and
- f.** Any adjacent or on-site public park, trail system, open space, greenway, or other public or civic use or amenity.

**2. Walkway Design<sup>160</sup>**

Required on-site pedestrian walkways shall be a minimum width of five feet. All required walkways shall:

- a.** Be distinguishable from areas used by vehicles using one or more of the following techniques:
  - i.** Changing surfacing material, patterns, and/or paving color, but not including the painting of the paving material;
  - ii.** Changing paving height;
  - iii.** Decorative bollards;
  - iv.** Raised median walkways with landscaped buffers or low-impact development BMPs;
- b.** Be designed with similar and/or complementary details, colors, and finishes as other interconnected walkways;
- c.** Have adequate lighting for security and safety;
- d.** Be conveniently and centrally located on the subject property;
- e.** Be ADA-accessible; and
- f.** Not include barriers that limit pedestrian access between the subject property and required connections to adjacent properties.

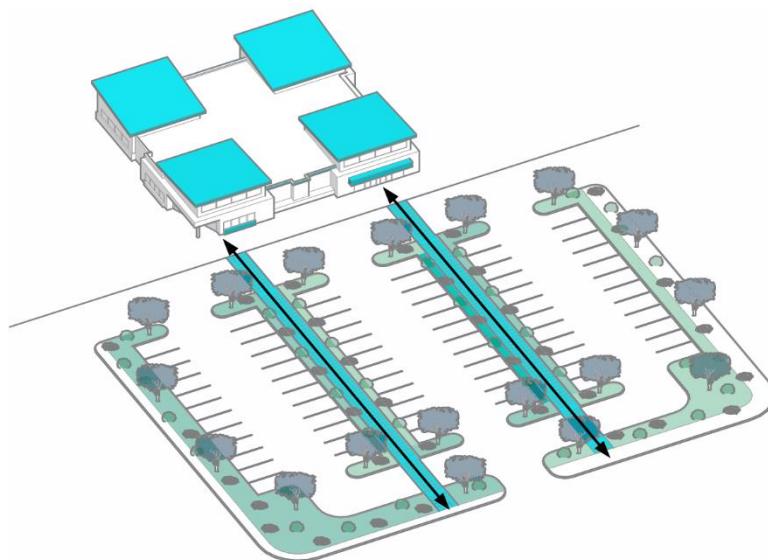
**C. Pedestrian Access through Parking Areas** 

All parking lots that contain more than two double rows of vehicle parking shall include pedestrian walkways through the parking lot to the primary building entrance or a sidewalk providing access to the primary building entrance. At a minimum, walkways shall be provided for every three driving aisles or at a distance of not more than 150-foot intervals, whichever is less. See Figure 4.9.6-2.

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<sup>160</sup> City wants to make shade mandatory on some sidewalks. This will be addressed as part of the downtown design standards coming in a forthcoming installment.

Figure 4.9.6-2: Pedestrian Access through Parking Areas



#### D. Pedestrian Access through Parking Garages

Pedestrian walkways shall be provided through parking garages from the parking area to the abutting public right-of-way and sidewalk and/or to the primary entrance of the building served. Pedestrian walkways shall not use vehicle entrance or exit driveways from the parking area to a public right-of-way.

#### E. Active Transportation Connectivity

Off-street trails, enhanced pedestrian paths, and active transportation corridors shall be installed in all new development or redevelopment, as required by the Thoroughfare Plan.

### 4.9.7 Bicycle Circulation

- A. Bicycle routes shall be established in accordance with the Thoroughfare Plan and Public Works and/or Transportation and Capital Improvements Department specifications.
- B. The development's internal bicycle circulation system shall permit safe, convenient, efficient, and orderly movement of bicycles between the development's internal origin and destination points and adjacent parts of an existing or planned external, community-wide bicycle circulation system, as well as any adjacent transit stations, bus stops and shelters, public parks, greenways, schools, community centers, and shopping areas.
- C. Sidewalks shall not be used to satisfy the bicycle circulation requirement unless at least 10 feet wide.

### 4.9.8 Developer Responsibility for Access and Connectivity Improvements

#### A. On-Site Improvements<sup>161</sup>

- 1. If a street is proposed within a development site, the developer shall provide roadway, bikeway, sidewalk, and other access and circulation improvements in accordance with the standards in this section, the Thoroughfare Plan, and current engineering design standards,

<sup>161</sup> Further discussion needed on whether some of these requirements may be applied to private streets in "build-to-rent" communities, which may have hundreds of duplexes or townhouses on one platted lot.

and shall dedicate any required rights-of-way or easements as determined necessary by the City.

2. If a development site includes the proposed corridor of a street designated on an adopted plan, the development shall incorporate provision of the street into the design of the development and shall dedicate right-of-way that meets the right-of-way width standards for the street. If a traffic impact analysis shows that the development itself is expected to generate sufficient traffic to warrant design of the street as a principal or minor arterial thoroughfare, the developer shall be responsible for constructing the street (including any bikeway, sidewalk, and other associated access and circulation improvements) in accordance with the City's standards for a principal or minor arterial thoroughfare, as appropriate; otherwise, the developer shall be responsible for constructing the street (including any bikeway, sidewalk, and other associated access and circulation improvements) to meet at least those standards in the Thoroughfare Plan for a local or collector street as determined by City staff.

## **B. Off-Site Improvements**



1. If a development site fronts on and obtains vehicular access from an existing street, the developer shall be required to dedicate additional right-of-way along the street frontage or in the vicinity of the development and to provide roadway, bikeway, sidewalk, and other access and circulation improvements within the street right-of-way that are reasonably necessary to ensure the safe, convenient, efficient, and orderly accommodation of vehicular and pedestrian traffic demands and impacts generated by the proposed development.
2. Such improvements may include, but are not limited to, turn lanes, deceleration and acceleration lanes, widening or paving of substandard roadways, medians, bikeways, sidewalks, sidewalk ramps and crossings, street lights, bus shelters, and the relocation or improvement of utility lines and facilities needed to accommodate street improvements. The extent of required dedications and improvements related to the abutting street shall be roughly proportional to the traffic demands and impacts generated to and along that street by the proposed development.

# Article 5: Subdivision Standards

## COMMENTARY

This draft carries forward much of the current Chapter 118, integrated into the new code format. All materials regarding platting and subdivision procedures have been removed and will be included with revisions in the new Administration article, which will be prepared in the next draft code installment.

Where text ~~with strikethrough~~ appears, that indicates content included in the new Access and Circulation section. It is maintained in this Article in this draft to allow reviewers to see what content will be relocated out of Subdivision Standards in future drafts, unless reviewers indicate reasons particular provisions should be maintained in this Article.

## 5.1 General Standards<sup>162</sup>

### 5.1.1 Purpose

The purpose of this article is to provide for the safe, efficient, orderly, and environmentally sound development of the City, and the provision of adequate streets, utilities, services, and facilities, all in accordance with the Comprehensive Plan for the City.

### 5.1.2 Authority

This chapter is adopted under the authority of the Constitution and laws of the state, including Texas Local Government Code chapters 42, 43, 212, and 311, and the City Charter.

### 5.1.3 Jurisdiction

#### A. Filing of Plats and Subdivision of Land

This chapter shall be applicable to the filing of plats and to the subdivision of land, as that term is defined herein and in Texas Local Government Code Ch. 212, within the corporate limits of the city and its extraterritorial jurisdiction as they may be from time to time adjusted by annexation or de-annexation. The city shall have all remedies and rights provided by said chapter 212 with regard to the control and approval of subdivisions and plats both within the city and within its extraterritorial jurisdiction in accordance with associated county interlocal agreements pursuant to the Texas Local Government Code.

#### B. Zoning Required<sup>163</sup>

If property located within the City is not zoned, permanent zoning shall be obtained prior to filing a plat for recordation.



#### C. Edwards Aquifer Recharge Zone<sup>164</sup>

Any plat that is located over the recharge zone of the Edwards Aquifer shall have approval from the Texas Commission on Environmental Quality (TCEQ), and such approval shall be filed with the City prior to the final plat being recorded.



<sup>162</sup> Based on current Chapter 118, Article I.

<sup>163</sup> New.

<sup>164</sup> 118-7.

### 5.1.4 Consistency with Comprehensive Plan<sup>165</sup>

- A. It is the intent of the City that this article shall be consistent with the adopted comprehensive plan, the zoning regulations of this Code, and any supplemental land use and community development policies that may be adopted by the City Council. No plat or subdivision of land within the city or its extraterritorial jurisdiction, as determined by the Texas Local Government Code, shall be approved unless it conforms to such plans, policies, and ordinances.
- B. The City's comprehensive plan was adopted as a guide, not as a mandate, for growth and development of the entire city and its extraterritorial jurisdiction. The future land use plan shall not be, nor be considered, a zoning map, nor constitute zoning regulations or establish zoning boundaries and is not site- or parcel-specific and shall be used to illustrate generalized locations. Also, the Thoroughfare Plan depicts generalized locations of new alignments which are subject to modification to fit local conditions and refinement as development occurs.

### 5.1.5 Applicability<sup>166</sup>

#### A. Platting Required

This article shall apply to the following forms of land subdivision and development activity within the city's limits and its extraterritorial jurisdiction; subject to the applicable provisions and exemptions of Texas Local Government Code Ch. 212 and exceptions to this article:

- 1. The division of land into two or more tracts, lots, sites, or parcels; or
- 2. All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the city's subdivision regulations, and which subsequently came within the jurisdiction of the city's subdivision regulations through:
  - a. Annexation (a subdivision started in another jurisdiction prior to annexation shall be allowed to continue provided it is in conformance with, and within the provisions of, Texas Local Government Code § 43.002); or
  - b. Extension of the city's extraterritorial jurisdiction; or
  - c. Through adoption of interlocal agreements; or
- 3. The combining of more than two contiguous tracts, lots, sites, or parcels for the purpose of creating one or more legal lots in order to achieve a more developable site, except as otherwise provided herein; or<sup>167</sup>
- 4. When a building permit is required for the following uses on unplatting property.
  - a. One- to four-family residential dwellings:
    - i. Construction of a new dwelling unit; or
    - ii. Moving a primary structure or a main building onto a piece of property; or
  - b. Non-residential and multi-family:
    - i. Construction of a new non-residential or multi-family structure; or
    - ii. Moving a primary structure onto a piece of property; or
- 5. For tracts where any public improvements are proposed; or
- 6. When a property owner proposes to divide land within city limits or within the extraterritorial jurisdiction into two or more tracts, and claims exemption from subchapter A of Chapter 212 of the Texas Local Government Code for purposes of development, that results in parcels or lots all greater than five acres in size in the city limits or ten acres in the ETJ; or in the event

<sup>165</sup> 118-5.

<sup>166</sup> Combines 118-9 and 118-10.

<sup>167</sup> Rewritten to exempt the combination of two legal lots from the platting requirement, per the Assessment recommendation.

that development of any such tract is intended, and where no public improvement is proposed to be dedicated, the owner shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Ch. 212, subchapter B, Regulation of Property Development, §§212.041—212.050, as may be amended. See §X.X for requirements for development plats.

**B. Platting Not Required**

The provisions of this article shall not apply to:

1. Development of legally platted land (i.e., land having final plat approval and having a recorded or recordable final plat) and approved prior to the effective date of this chapter, except as otherwise provided for herein (construction of facilities and structures shall conform to design and construction standards in effect at the time of construction) and for which no re-subdivision is sought;
2. The combining of contiguous legal tracts, lots, sites, or parcels for the sole purpose of erasing internal boundary lines and creating one legal lot in order to achieve a more developable site;<sup>168</sup>
3. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, development, subdivision, or alteration is occurring;
4. Existing cemeteries complying with all state and local laws and regulations;
5. A division of land created by order of a court of competent jurisdiction;
6. When a building, trade, or other permit is requested for unplattd or already platted parcels for one or more of the following activities:
  - a. Replacement or reconstruction of an existing primary one- to four-family structure, but not to exceed the square footage, nor deviate from the original location, of the original structure;
  - b. Building additions;
  - c. Accessory buildings;
  - d. Remodeling or repair which involves no expansion of square footage;
  - e. Moving a structure off a lot or parcel; or
  - f. Demolition.
7. A division of land in the ETJ for which all lots or tracts in the subdivision or development are at least ten acres in size and have at least 60 feet of frontage on a public street. However a development plat may be required, as described in §X.X,<sup>169</sup> or
8. A division of land within the corporate limits of the city into parts greater than five acres, where each part has at least 60 feet of frontage on a public street and no public improvement is being dedicated; provided, however, dedication of a public improvement pursuant to a development plat will not be deemed to require that the owner/developer obtain a subdivision plat. However a development plat may be required, as described in §X.X; or

<sup>168</sup> Proposed new exception to platting requirement, as discussed in Assessment.

<sup>169</sup> X-refs to procedures article, installment 3.

## 5.1.6 Special Provisions<sup>170</sup>

### A. Septic Tanks

No permit shall be issued by the City for the installation of septic tanks upon any lot in a subdivision for which a final plat has not been approved and filed for record, or upon any lot in a subdivision in which the standards contained in this article have not been complied with in full.

### B. Grading and Building Permits

No site work such as grading and clearing may be initiated prior to issuance of a grading and clearance permit, and no building permit shall be issued by the City to begin construction on any structure on a lot in a subdivision for which a final plat has not been approved and filed for record unless exempt from platting as described in §5.1.5B, nor for any structure on a lot within a subdivision in which the standards contained in this article have not been complied with in full.

### C. Street and Utility Installation, Maintenance, and Repair

The City shall not repair, maintain, install, or provide any streets or allow the provision of public utility services in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained in this article or referred to in this article have not been complied with in full.

### D. Utility Service

The City shall not permit the sale, supply, or approval of any utility service within a subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained in this article or referred to in this article have not been complied with in full.

### E. Final Plat Not Approved or Standards Not Complied With

If any subdivision exists for which a final plat has not been approved or in which the standards contained in this article or referred to in this article have not been complied with in full, the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions A, B, C, D, above apply to the subdivision and the lots therein. The city secretary shall, when directed by the City Council, cause a certified copy of such resolution under the corporate seal of the City to be filed in the deed records of the county or counties in which such subdivision or part thereof lies. If full compliance and final plat approval are secured after the filing of such resolution, the city secretary shall forthwith file an instrument in the deed records of such county or counties stating that provisions A, B, C, D, above no longer apply.

### F. Filing of Security Prior to Recordation of Final Plat

Notwithstanding any contrary provisions in this article, if an applicant meets all other applicable requirements of this article and chooses to file security prior to recordation of the final plat and meets all requirements for posting security in this article, then provisions A, B, C, D, above shall not apply and permits may be issued, and improvements may be installed and maintained.

### G. Regulations in Place at Time of Application Filing

The orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements or standards in effect at the time the original application is filed shall be the sole basis for consideration of all subsequent plans and plats required for the completion of the project. Subdivision master plans and related plats, and all other development plats for land

<sup>170</sup> 118-6. New subheadings. This is carried forward per the Assessment and detailed review table. However, it may require some additional fine-tuning to clarify the term "special provisions." We believe that term is used to collectively refer to subsections A-D here, and subsections E-G refer to the applicability of those special provisions in certain circumstances. Also, some of this material may be more appropriate to include with the subdivision procedures.

covered by the subdivision master plans and plats, are considered collectively to be one series for a project.

### **5.1.7 Payment of All Indebtedness Attributable to a Specific Property<sup>171</sup>**

No person who owes delinquent taxes, delinquent assessments, delinquent fees, or any other delinquent debts or obligations to the city, and which are directly attributable to a piece of property, shall be allowed to record any plat or replat until the taxes, assessments, debts or obligations directly attributable to said property and owed by the property owner or a previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the city has been made for the payment of such debts or obligations. It shall be the applicant's responsibility to provide evidence or proof that all taxes, assessments, debts or obligations have been paid before any plat is recorded.

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## **5.2 Administration and Platting Procedures<sup>172</sup>**

[REMOVED; RESERVED FOR INSTALLMENT 3]

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## **5.3 Design Standards<sup>173</sup>**

### **5.3.1 Generally<sup>174</sup>**

#### **A. Conformity to Design Requirements**

No plat shall be approved by the Planning Commission, and no completed improvements shall be accepted by the Transportation and Capital Improvements Department, unless they conform to the following design requirements and applicable standards, or unless waived by the Planning Commission in accordance with **SX.X**. Although the intention of this section is to establish uniform design standards, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used if approved by the Transportation and Capital Improvements Department.

#### **B. Adequate Public Facilities Policy**

The land to be divided or developed must be served adequately by essential public facilities and services. No subdivision shall be approved unless and until adequate public facilities exist or provision has been made for water, wastewater, drainage, electric and road facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the city. Wherever the subject property adjoins undeveloped land, or wherever required by the city to serve the public good, utilities and drainage systems shall be extended to adjacent property lines to allow connection of these utilities and drainage systems by adjacent property owners when such adjacent property is platted and/or developed.

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### **5.3.2 Blocks**

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#### **COMMENTARY**

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<sup>171</sup> 118-14.

<sup>172</sup> Chapter 118, Article II.

<sup>173</sup> Chapter 118, Article IV.

<sup>174</sup> Section 118-43.

(A connectivity index or ratio, such as in the Mayfair DDCD, was suggested by some as an alternative to maximum block lengths. However, our experience in jurisdictions that have adopted those has been that they are unnecessarily challenging to explain and administer. We can provide sample language if staff still wants to consider them.)

## A. Maximum Block Length

### COMMENTARY

Numerous stakeholders cited block length as challenging in practice and subject to frequent waiver requests, both on account of the length, and lack of clarity in how it should be measured. The current standards in 118-44 is that block lengths shall not exceed 1,200 feet, except along arterials, which may be 1,600 feet.

Various alternative options are proposed here for discussion, with most reducing maximum block length for residential areas to improve walkability.

-The first ties block length to street type, as specified in the Thoroughfare Plan. This approach is similar to what is used in San Antonio, but they have a more detailed street classification system (e.g., Local Type A, Local Type B, Collector A). Some numbers are included to start below but this would need to be further elaborated if this approach is selected for New Braunfels.

-The second would impose a simple average for residential blocks and no maximums for other blocks.

-The third approach is related to the zoning district in which streets are constructed. This approach is used in many communities as it is relatively simple to administer. It does not always work well for some transition areas where a road divides separate districts, in some mixed-use contexts, and where PD is proposed.

-The fourth  option proposes a connectivity index, similar to what has been implemented in Mayfair. A block length is specified for local residential streets, but otherwise, the development simply has to meet the connectivity ratio, so block length can vary beyond the one basic standard (it is also possible to implement a connectivity index without the basic minimum standard). This approach largely eliminates issues with block length measurement, but it can be complicated for the public to understand, and staff to administer. Because of the complexity, such an approach is typically only applied where there are large tracts (20 acres and more) remaining to be developed.

For all options, a provision for added flexibility based on topography and other site-specific conditions is included.

#### 1. OPTION 1:

The maximum block length shall be based on the adjacent street type(s) in accordance with the Thoroughfare Plan.

- a. Local residential streets: 600 feet
- b. Minor/Major Collector: 1,200 feet
- c. Minor/Principal Arterial or Parkway: 1,600 feet
- d. Other classifications: no limit.

#### 2. OPTION 2:

Blocks where dwellings front a street within a subdivision or site plan shall not be less than 300 feet nor more than 600 feet in length.

#### 3. OPTION 3:

- a. The maximum block length shall be based on the zoning district.

**Table 5-1: Block Length by Zoning District**

Zoning District	Maximum Average Block Length (ft)	Maximum Block Length (ft)	Maximum Block Perimeter
R4, R2.5, RMX, RMF1, MXT, CN	550	650	2,200

<b>R12, R8, R6.6, R5.5, RMF2, MXC</b>	600	800	2,400
<b>RMF3, MXR, CG</b>	800	1,000	2,600
<b>All Other Districts</b>	None	None	None

b. Within a single phase of any subdivision, individual blocks may exceed the maximum average block length up to the length allowed in the Maximum Block Length column in Table X.X above, provided that the average length of all blocks in the phase does not exceed the maximum.

#### 4. **OPTION 4: Connectivity Ratio**

##### a. **Purpose**

The intent of applying a connectivity ratio to new development is to ensure that:

- i. There is a minimum level of access to and from destinations in a neighborhood, including more than one route to and from a destination;
- ii. Traffic is distributed over multiple roads in the network, rather than channeled on to one or two congested access roads; and
- iii. There are enhanced options for non-vehicular travel, with shorter, more walkable blocks, and provisions for bicycles.

##### b. **Applicability**

This connectivity ratio shall be required for new subdivisions of at least 20 acres.

##### c. **Minimum Standards**

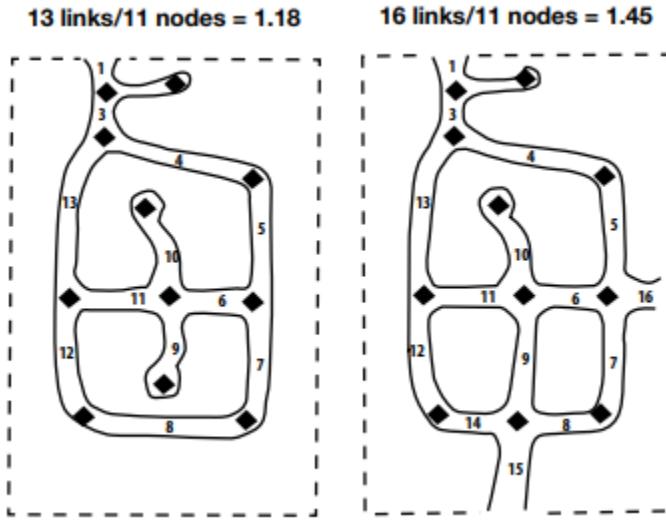
- i. The maximum block length for local residential streets shall be 750 feet.
- ii. There is no maximum block length for collector and arterial streets, however, the subdivision overall shall achieve an internal connectivity ratio between links and nodes of 1.4.
- iii. A link is a street section or block face along a traveled way. A node is an intersection of streets, or an intersection of a street and a non-vehicular connection (such as a pedestrian easement that connects the end of a cul-de-sac to the closest adjacent street or walkway beyond the end of the cul-de-sac. See Figure 4.9.4-1.)

##### d. **Calculating Connectivity Ratio**

The connectivity ratio is calculated by dividing the number of street sections by the number of intersections.

##### e. **Example Calculation**

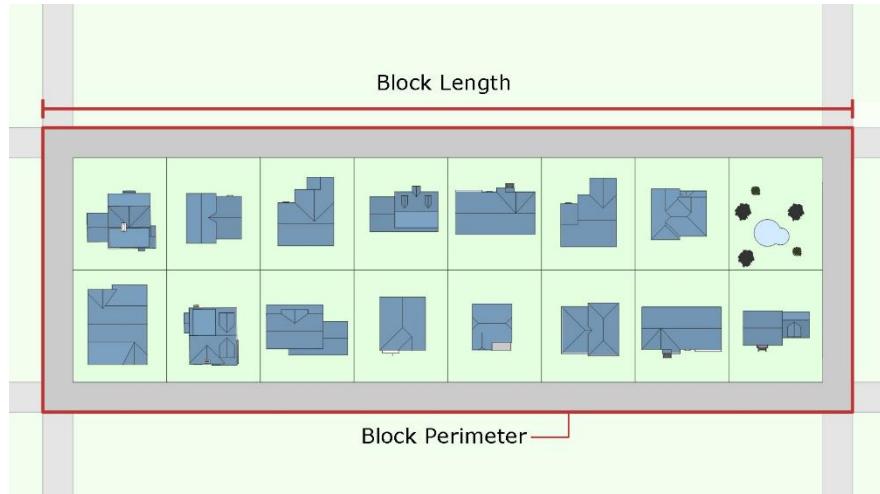
In the Figure below, the street section links are numbered, and the nodes are diamonds. The example on the left does not have sufficient connectivity to meet the 1.4 connectivity ratio requirement, while the example on the right does meet the requirement.

**Figure 5.3.2-2: Example Connectivity Ratio Calculations****5. FOR ALL OPTIONS:**

The Board of Adjustment may approve a shorter or longer block length when necessary to accommodate natural features such as steep slopes, environmentally sensitive lands, and pedestrian linkages; or for blocks adjacent to the outer perimeter of the property.

**B. Measurement**

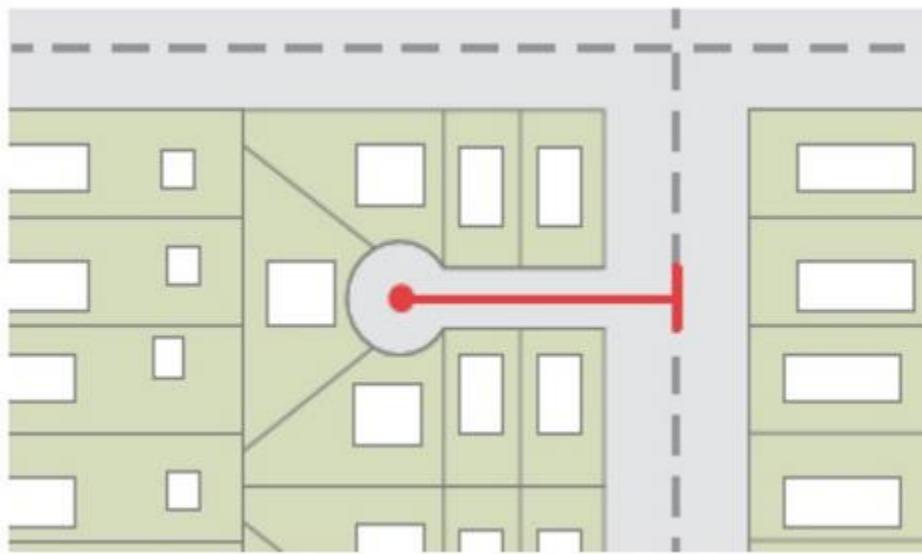
1. The length of a block is measured along the longest axis, as illustrated below:

**Figure 5.3.2-3: Block Length Measurement**

2. The perimeter of a block is measured along the edge of the properties adjoining the public right-of-way, except for the measurement of dead end streets (including culs-de-sac), which are measured from intersecting centerlines, as shown below.

**Figure 5.3.2-4: Dead End/Cul-de-Sac Length Measurement**

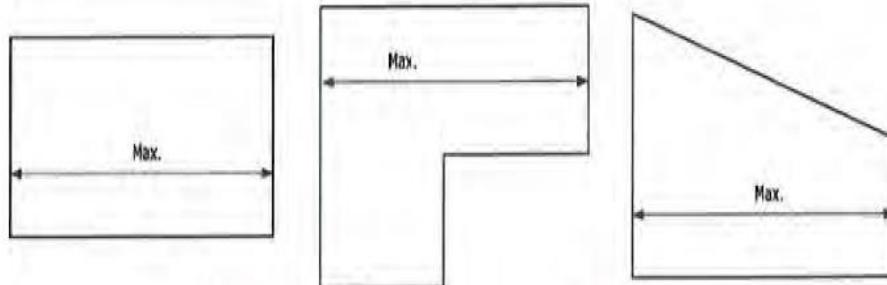
NOTE: Example graphic from San Marcos TX; under redevelopment.



3. To measure an irregularly shaped block:
  - a. Length is measured along the longest uninterrupted axis of the block, as illustrated below.

**Figure 5.3.2-5: Irregular Block Length Measurements**

NOTE: This illustration is being updated to include lots and streets. A second graphic will be created to show intersections that meet the maximum block length standards.



- b. **Option 1:** Along the length of this longest axis, a connection such as an intersection or pedestrian pathway to an adjacent street shall be provided at an interval not greater than the maximum allowed block length, on at least one side of the street, in order to meet the block length requirement.<sup>177</sup>
  - c. **Option 2:** The length of a block where residential uses front a street within a subdivision or site plan shall be measured from the edge of the property line of the street siding the furthest lot of the block width or to the center of a cul-de-sac, 90° Elbow, or 90° Knuckle.<sup>178</sup>

<sup>177</sup> New.<sup>178</sup> From San Antonio. Intended to help with measurement in unusual block configurations, which was cited as an issue.

### 5.3.3 Lots<sup>179</sup>

#### A. Purpose

The purpose of standards for lots and access is to ensure that:

1. Each lot conforms to the minimum requirements of the established zoning district, if located within the city's corporate limits.
2. The minimum lot dimensional requirements ensure each lot is "buildable," with sufficient area for a structure and any required setbacks and open space as mandated by zoning district requirements, and that relatively uniform lot sizes maintain a consistent character among different lots in the same development.
3. There is space for the proper provision of utilities to serve the lot (above or underground), and for driveway access and spacing.
4. Each lot has adequate access to an improved public or private street, to facilitate egress and ingress, as well as access for emergency services.

#### B. Minimum Lot Frontage and Street Access

1. Each lot on a subdivision plat shall front onto a dedicated, improved public street unless platted as an approved private street subdivision in accordance with this chapter. Lot width and access shall conform with the provisions of this article; Chapter 114, *Streets, Sidewalks, and Other Public Places*; the comprehensive plan; and any other applicable city code or ordinance.
2. In all cases, minimum allowable street frontage shall not be less than minimum lot width specified by the applicable zoning district.<sup>180</sup>
3. Non-buildable lots such as drainage lots shall have a minimum street frontage of 15 feet to ensure access to the site for maintenance.<sup>181</sup>

#### C. Lot Depth-to-Width Ratio<sup>182</sup>

To avoid the creation of long narrow lots, the depth of a lot shall not exceed three times the width of the lot measured at road frontage.

#### D. Irregular-shaped Lots

1. Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district (if within the city's limits) and shall provide a reasonable building pad without encroachment into front, side or rear yard setbacks or into any type of easement.
2. The rear width shall be sufficient to provide access for all necessary utilities, including access for driveways and solid waste collection when rear alleys are present (minimum 20-foot alley frontage).
3. The Planning Commission may disapprove any lot that, in its sole opinion, will not be suitable or desirable for the purpose intended, which is an obvious attempt to circumvent the purpose

<sup>179</sup> Section 118-45. New subheadings added.

<sup>180</sup> This provision was changed to recognize that minimum lot width in some of the proposed zoning district is less than what this provision originally specified.

<sup>181</sup> New per staff comment in Assessment.

<sup>182</sup> Proposed new standard based on staff comments. A minimum lot width-to-depth ratio is intended to prevent the creation of long and narrow lots, as well as the crowding of buildings along access roads while leaving the land behind buildings vacant and unserviceable.

and intent of lot configuration or lot width minimums, or which is so oddly shaped as to create a hindrance to the logical lot layout of surrounding properties.

**E. On-Site Sewage Facilities (OSSF)—Septic Tanks**

Where public wastewater lines are not available, as determined in chapter 130, OSSF such as septic tanks may be used. Minimum lot sizes shall be as follows:

**1. One- to Four -Family Lots Within City limits**

- a. Lots served by public water supply: One-half acre.
- b. Lots not served by public water supply: One acre.
- c. Any lot over the Edwards Aquifer Recharge Zone: governed by the Texas Commission on Environmental Quality (TCEQ); please see TCEQ's current standards.

**2. Multi-Family and Non-Residential Lots**

As determined by the City based on a study provided by the subdivider/developer.

**3. ETJ**

If in the ETJ or otherwise outside the city limits, the respective county's standards apply.

**F. Extra Depth and Width in Certain Cases**

1. Where a lot in a one- to four- -family residential area backs up to a railroad, a high-pressure gasoline easement, oil or gas line easement, electric transmission lines (69 kv or higher) easement, an arterial street, an industrial area or other land use that may have a depreciating effect on the residential use of the property, and where no marginal access street or other street is provided at the rear of such lot, additional depth may be required by the Planning Commission.
2. Where a lot sides to any of the above-described cases, additional width may be required by the Planning Commission

**G. Lots Adjacent to or in Floodplains**

1. Subdivision of property in a designated floodplain must meet the requirements of the adopted ordinances of the city regulating land use and development in the floodplain.
2. In no instance shall development be allowed in the floodway.

**H. Common Areas**

1. Areas held in common by a homeowners' or property owners' association shall be shown on the plat as a separate lot.
2. If the common areas or easements shown on a plat are not properly maintained as determined by the Planning and Development Services Department and the Transportation and Capital Improvements Department, the City may make notice to the association to begin maintenance. Notice shall be given at least 14 days prior to any action on the part of the City to enforce proper maintenance provisions of this or any other chapter of this Code. If the common area is not properly maintained, the city may take any appropriate action allowed by law in a court of competent jurisdiction to enforce the provisions of this section.
3. In addition, the city may, after at least 14 days' notice to the association, complete such improvements or maintenance as determined necessary by the Transportation and Capital Improvements Department and place a lien on all the property in the subdivision in which common improvement or easement is located for each lot's pro-rata share of the work completed by the City at the City's expense. A note to this effect shall be placed on the final plat of any subdivision which has common areas or easements maintained by a homeowners' or property owners' association.

### 5.3.4 Streets

#### COMMENTARY

In this section, where text with ~~strikethrough~~ appears, that indicates content included in the new Access and Circulation section. It is maintained in this Article in this draft to allow reviewers to see what content will be relocated out of Subdivision standards in future drafts, unless reviewers indicate reasons particular provisions should be maintained in this Article.

#### A. Street Layout

1. Adequate streets shall be provided by the subdivider. The arrangement, character, extent, width, grade, and location of each shall be considered in their relation to existing and planned streets, topographical conditions, public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets, with a grid pattern layout preferred to the greatest extent possible. Local residential streets should be laid out to discourage their use by through traffic, by the use of curving streets, T-intersections, roundabouts, and other traffic calming measures.
2. A waiver may be considered for local residential streets as defined in **subsection (X.X)** that may curve, meander, and otherwise deviate from the radius and tangent requirements set forth in **subsection (X.X)** when:
  - a. The developer's engineer designs streets that meet recognized standards, and
  - b. The Planning Commission determines that such design is not contrary to the best interest of the city, public safety, and the users of its street system.

#### B. Streets on City Comprehensive Plan or Thoroughfare Plan

The City Council has adopted the *Envision New Braunfels* comprehensive plan as a guide for growth and development of the entire city and its extraterritorial jurisdiction.

1. When a tract to be platted borders on or embraces any part of any street shown on the Thoroughfare Plan, all parts of such proposed street shall be shown on the master plan or the plat.
2. All arterial and collector street locations, alignments, right-of-way widths, pavement widths, and cross sections shall be determined by the Planning Commission and City Council in accordance with its adopted Thoroughfare Plan.

#### C. Relation to Adjoining Street System

Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith.

#### D. Projection of Streets

Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided area.

#### E. Street Names

Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.

#### F. Street Jogs

Street jogs with centerline offsets of less than 150 feet shall be prohibited. A street intersecting with or extending to meet an existing street shall be tied to the existing street on centerline with distances and angles to show relationships.

#### G. Half Streets or Half Alleys

All subdivisions shall have access to an adequate perimeter street or approach street as defined in this section.

## H. Street Intersections

Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography, site distances and safety. Roundabouts are encouraged to resolve issues when right angle intersections are impractical. Curb radii shall conform to city standards.

## I. Dead-End Streets

Permanent dead-end streets shall be prohibited except as short stubs to permit future expansion and shall not exceed the depth of one lot or 250 feet, whichever is less, unless a temporary turnaround is installed in accordance with subsection J below.

## J. Temporary Turnarounds

Temporary turnarounds shall be required if:

1. The stub street extends beyond one buildable lot or 250 feet, whichever is less, or
2. Where the buildable lot width fronts and only has access to the stub street. For purposes of this subsection only, a stub street is measured from the centerline of the nearest intersecting street with the stub street, as illustrated below.

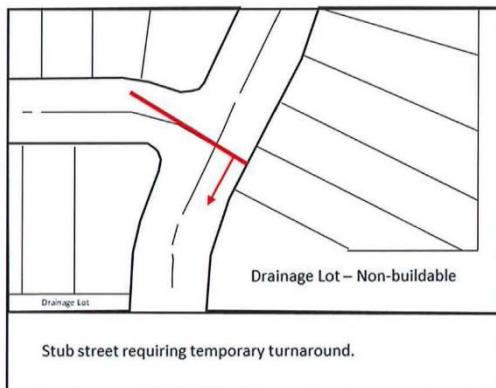


Figure: 5.3.4-1: Measurement from Stub Street

## K. Cul-de-Sac

1. A cul-de-sac shall not be more than 1,000 feet in length unless:
  - a. A "turn-around bubble" is provided in accordance with this chapter, or
  - b. It is recommended by the Transportation and Capital Improvements Department and approved by the Planning Commission for specific reasons of topography or engineering design.
2. All culs-de-sac longer than 1,000 feet shall have a "turn around bubble" with the same radius and driving surface noted above located at least every 1,000 feet. "T" or "hammerhead" turnarounds may be approved by the Planning Commission if recommended by the Transportation and Capital Improvements Department.
3. All cul-de-sac streets greater than 150 feet from the centerline of the cross street's pavement to the center point of the cul-de-sac turnaround shall be designed with a minimum right-of-way radius of 65 feet and a minimum driving surface radius of 55 feet. Cul-de-sac streets less than or equal to 150 feet shall be designed with a minimum right-of-way radius of 58 feet and a minimum driving surface radius of 48 feet. Larger culs-de-sac may be required dependent on the development as recommended by the Transportation and Capital Improvements Department and approved by Planning Commission and City Council.

**L. Medians and Traffic Calming**

1. A median is the portion of the roadway separating traffic traveling in opposite directions.
  - a. Medians are desirable on collectors and arterials carrying four or more lanes of traffic for operations, access management and safety. Medians may also offer an open green space, provide a refuge area for pedestrians, and control the location of intersection traffic conflicts.
  - b. Median design shall meet recognized engineering design standards.
  - c. Landscaping, vegetation, and other natural features in medians may constitute roadside obstacles and shall meet recognized roadside and sight distance standards.
2. Traffic calming is the use of physical devices to influence vehicle operations in order to reduce anticipated speeds and through traffic, and increase driver awareness in residential areas. Traffic calming may be placed on local and residential collector streets adjacent to one- to four -family residential lots.
  - a. Traffic calming measures may include road narrowing, midblock medians, cul-de-sac islands, curb extensions, traffic circles, speed tables, and roundabouts.
  - b. Traffic calming measures shall meet recognized engineering design standards.

**M. Local Residential Streets**

Local streets serving residential property shall be laid out so as to discourage their use by through traffic.

**N. Pavement Widths and Rights-of-Way of Streets Forming the Subdivision Boundary**

Where a proposed subdivision abuts an existing street or half-street that does not conform to the requirements of this section, the subdivider shall dedicate or reserve the needed right-of-way width.

**O. Reserve Strips Prohibited**

There shall be no reserve strips controlling or preventing access to land dedicated or intended to be dedicated to public use or to street or trail connections from one subdivision to another.

**P. Non-Access Easement**

Where deemed necessary by the Planning Commission, a vehicular non-access easement may be required on a lot or lots for the purpose of controlling ingress and egress to vehicular traffic.

**Q. Responsibility for Right-of-Way Dedication and Public Street Construction****1. Internal Streets**

- a. The developer shall be responsible for the dedication and construction of all local and collector streets within the proposed subdivision at their own expense. The developer may also be required to construct at least two lanes of an arterial street, if a traffic impact analysis (TIA) demonstrates that this is necessary to support traffic anticipated to be generated by the subdivision.
- b. The developer may be required to dedicate additional right-of-way and construct additional lanes of an arterial street or TxDOT road based on the Planning Commission's review of a traffic impact analysis (TIA), and if such construction does not impose a disproportionate burden on the property owner or their property.
- c. The Planning Commission may allow in lieu of construction an escrow be deposited for a period no longer than ten years equal to the developer's roughly proportionate share of the cost of constructing streets, the value of which shall be approved by the Transportation and Capital Improvements Department.
- d. Streets shall be constructed in accordance with this chapter.

**2. Perimeter Streets**

- a. The developer shall, at their own cost, dedicate or reserve right-of-way for approach and perimeter streets, if such dedication or reservation does not impose a disproportionate burden on the property owner or their property.
- b. The city may, at the city's sole option, pay for street right-of-way acquisition or street construction that is in excess of the demand caused by the subdivision or development.
- c. **Adequate access**
  - i. All subdivisions shall have access to an adequate perimeter or approach street. An adequate perimeter or approach street is a dedicated public street that has an average pavement width of at least 24 feet adjacent to the area being platted, even though such pavement is not to city standards at the time of platting. If the approach or perimeter street is adequate, the developer shall not be required to build additional approach or perimeter streets, but shall be required to dedicate or reserve right-of-way according to this section. If a subdivision does not have access to an adequate perimeter or approach street, as defined above, the Planning Commission may deny the plat, the developer may construct an adequate street as determined by the Commission, or the developer may offer to enter into a development agreement with the city for sharing in the cost of constructing an adequate street. Such development agreement may be approved by the City Council.
  - ii. If there is more than one perimeter or approach street adjacent to the area being platted, at least one of those streets must be adequate, or be constructed to be adequate, and improvement of the other(s) perimeter or approach street(s) is (are) not required to be adequate. However, right-of-way shall be dedicated or reserved according to this section for all perimeter or approach roads.
  - iii. If the area being platted has adequate access but is adjacent to other inadequate perimeter or approach street(s), the developer may either improve the inadequate street(s) to city specifications in the area adjacent to the area being platted or not take access to the inadequate street(s). The Planning Commission may require a "stub out" of an internal street to the inadequate perimeter or approach street and the developer may be required to provide a temporary turn around for a dead end street in accordance with this chapter.
  - d. The construction of an adequate access shall be according to the standards of this LDO and Chapter 114.
3. Based on a traffic impact analysis, the Planning Commission may require a developer to dedicate or reserve right-of-way and/or construct street improvements to mitigate adverse traffic impacts shown by the analysis which the Commission deems appropriate and roughly proportionate to the development's impact.

**R. TxDOT Access**

All plats that require access from a TxDOT-maintained roadway shall be submitted by the applicant to the TxDOT district office for review prior to submission of a plat application to the city. No final plat shall be recorded unless TxDOT has notified the city in writing that the proposed access to and proposed right-of-way dedication or reservation to the TxDOT roadway is acceptable.

**S. Slope Easements**

The dedication of easements, in addition to dedicated rights-of-way, may be required whenever, due to topography, additional width is necessary to provide adequate earth slopes.

**T. Intersection Improvements and Traffic Control Devices**

Intersection improvements and traffic control devices shall be installed as warranted in accordance with the traffic impact analysis required by this section, or as may be required by the Planning Commission for traffic safety and efficiency. Construction and design standards shall be in accordance with this chapter.

**U. Private Streets<sup>187</sup>**

The layout for new subdivisions with private streets may be approved at the time of master plan or plat approval. All private streets must be designated as a lot or lots on the subdivision plat and must be conveyed by the developer or owner to a homeowners' association or property owners' association. The subdivision plat shall provide a note that the street is a private street and shall be maintained by the homeowners' or property owners' association and that the city shall have no maintenance or repair responsibilities. The city may periodically inspect private streets and may require any repairs necessary to ensure efficient emergency access and to protect the public health, safety, convenience and welfare. The following are the requirements for subdivisions with private streets:

**1. Construction and Maintenance Cost**

The dimensional, but not structural, standards for private streets shall be designed by a licensed professional engineer, and do not have to meet the standards for public streets contained in this chapter, if a waiver of such standards is approved by the Planning Commission in accordance with this chapter. The city shall not pay for any portion of the cost of constructing or maintaining a private street. A HOA or property owners' association is required to maintain private streets.

**2. Restricted Access**

The entrances to all private streets shall be clearly marked with a sign, placed in a prominent and visible location, stating that the streets within the subdivision are private and that they are not maintained nor regularly patrolled by the city. All restricted access entrances shall provide a reliable means of ensuring access into the subdivision by the city, by emergency service providers, and by other utility or public service providers, such as postal carriers and utility companies. The method to be used to ensure city and emergency access into the subdivision shall be approved by the city's fire department and by any other applicable emergency service providers. If the association fails to maintain reliable access as required herein, the city may enter the private street subdivision and remove any gate or device that is a barrier to access at the sole expense of the HOA or property owners' association.

**3. Waiver of Services**

Certain city services may not be provided for private street subdivisions. Among the services that may not be provided are: routine law enforcement patrols, enforcement of traffic and parking regulations, and preparation of accident reports. Depending upon the characteristics of the development and upon access limitations posed by the design of entrances into the subdivision, other services (such as sanitation) may not be provided as well.

**4. Petition to Convert to Public Streets**

The HOA or property owners' association may petition the City Council to accept private streets and any associated property as public streets and right-of-way upon written notice to all association members and upon the favorable vote of a majority of the membership. Such petition shall be submitted to the Planning Commission in accordance with the Commission's calendar for master plans and plats, who shall make a recommendation to the City Council. However, in no event shall the city be obligated to accept said private streets as public streets. Should the city elect to accept the private streets as public streets, the city has the right to inspect the private streets and to assess the lot owners for: (i) the expense of improving the private streets to meet city standards for public streets and (ii) the expense of needed repairs, if any, prior to the city's acceptance of the streets. The city shall be the sole judge of whether improvements and/or repairs are needed. The city may also require, at the association's or the lot owners' expense, the removal of any guard houses, access control devices, landscaping or

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<sup>187</sup> Current 118-46(x).

other aesthetic amenities, appurtenances or objects, located within the street lot or within any other common area.

**5. Gated Subdivision Streets**

When a gated entry is installed on a private street, the following provisions shall be met:

**a. Emergency Access**

An approved keyed or keyless entry system shall be provided on all gates. This security access system shall include the following for the specified type of gate:

**i. Electric-Operated Gates**

- a. A gate override in case of power failure;
- b. Access provided to the school district, law enforcement, and utility providers; and
- c. A fire department lock box for the fire department having jurisdiction.

**ii. Non-Electric-Operated Gates**

- a. A fire department lock box. If within the ETJ, the key or code of the fire department lock box shall be provided to the appropriate county office of emergency management.

- b. Non-electric operated gates shall only be utilized at secondary access points.

- iii. Written approval from the responding fire department confirming their satisfaction with the access being provided shall be submitted.

**b. Queuing**

At gated entrances where traffic can queue into public streets, the gate and entrance design must provide for sufficient storage capacity so that no vehicles will queue into the public street. Gated entrance shall be designed as follows:

- i. The gated entryway vehicle storage length measured from the call box to the public right-of-way shall meet the following requirements:

- a. A minimum of 40 feet for up to 100 peak hour trips.
- b. For developments over 100 peak hour trips, the traffic impact analysis shall include a queuing analysis to determine the minimum entryway vehicle storage length for the gated entry.

- ii. The gated entryway distance from the call box to the entry gate shall be a minimum of 30 feet.

- iii. The gated entryway pavement width for each egress and ingress shall be a minimum of 20 feet.

- iv. The gated entryway center median shall be a minimum of four feet wide.

- v. The gated entryway area between the entry gate and public right-of-way shall be free from overhead structures, mail boxes or other objects that may limit the safe movement of vehicles or restrict sight distance.

- vi. The subdivider shall provide for vehicle turnaround capability based on the single unit design (SU-30) vehicle as provided in the 2011 American Association of State Highway and Transportation Officials A Policy on Geometric Design of Highways and Streets, or latest revision thereof or be able to make a three-point turning movement to prevent a motorist from backing onto the public street.

**c. Connectivity**

The street system shall comply with other street standards of this chapter.

**d. Completion and Acceptance**

Gates shall be installed and operational prior to completion of construction of required public/subdivision improvements as defined in this chapter, and be accepted by the fire marshal and Transportation and Capital Improvements Department.

## V. Traffic Impact Analysis

### COMMENTARY

This section is under review by the Transportation and Capital Improvements Department. Once updated, this content will be included in later drafts of this document.

#### W. [RESERVED]

#### W. Street Signs

Street signs shall be installed, at the cost of the developer and at no cost to the city, in accordance with approved construction plans.

#### X. Streetlights

Streetlights shall be installed, at the cost of the developer and at no cost to the city, at all intersections, at the end of a cul-de-sac, and every 500 feet along streets in the subdivision, and as required by NBU or the applicable utility provider in accordance with standards published by the utility.

### 5.3.5 Alleys<sup>191</sup>

- A. Alleys may be required or provided in residential, commercial, and industrial areas. Alleys, if required or provided, shall be constructed at the expense of the developer and shall conform to the provisions of this chapter.
- B. Dedicated alleys must be approved by the Planning Commission at the time of plat approval before they can become public alleys. Otherwise, they shall be treated as service drives or private alleys and the developer, HOA, or property owners' association shall be responsible for maintenance.
- C. Alley rights-of-way, except as provided in subsection F below, shall be a minimum of 20 feet wide, with 20 feet of paving in business and industrial areas and a minimum of 12 feet of paving in residential areas. All alley paving shall be done in accordance with city standards.
- D. Where two alleys or utility easements intersect or turn at a right angle, a cutoff or corner clip of not less than ten feet from the normal intersection of the property or easement line shall be provided along each property or easement line.
- E. If alleys are not themselves straight within each block, or if the alleys do not connect on a straight course with the alleys of adjoining blocks, then an easement shall be provided for the placing of guy wires on lot division line in order to support poles set on curving or deviating rights-of-way of alleys. Alternately, utilities shall be placed underground as described in §5.3.6A, *Underground Utilities*.
- F. Lots that have rear entry garages or access will be provided with a service drive or private or public alley abutting the rear lot line. The service drive or alley shall have a minimum right-of-way width of 25 feet, a minimum paved surface width of 22 feet, and shall be constructed in accordance with city standards. Service drives and private or public alleys shall not exceed 1200<sup>192</sup> feet in length without providing access at the midsection of the alley to a public street. Dead-end service drives serving less than eight units will be permitted. Service drives shall not be dedicated to the city and maintenance of such service drives shall be the responsibility of the owner, HOA, or property owners' association within the subdivision.

<sup>191</sup> Section 118-47.

<sup>192</sup> Increased from the current 900 feet per stakeholder suggestion.

### 5.3.6 Utilities and Utility Easements



#### A. Underground Utilities<sup>193</sup>

1. All wires, cables, or other equipment for the distribution of electric energy and telecommunication signals, with the exception of transformers, meters, junction boxes, and like equipment, shall be placed underground where practicable.
2. Where subdivisions or developments are approved along or crossing existing overhead power and communications facilities, energy and telecommunications may be obtained from these existing facilities. The connections to these facilities shall be placed underground unless otherwise approved by the Transportation and Capital Improvements Department due to economic, engineering, or aesthetic reasons.

#### B. Utility Easements<sup>194</sup>

1. Utility easements and rights-of-way shall be provided in the subdivision or development that meet the requirements of City systems for the installation and maintenance of energy distribution, telecommunication facilities, water, wastewater, and storm drainage facilities.
2. The location and width of sanitary sewer system, water, electrical, communication or other such utility easements shall be determined by the appropriate utility in accordance with the utility's applicable standards, and the standards described in §X.X [Construction Plans]. Drainage and storm water easements and rights-of ways shall be determined in accordance with chapter 143 and the Drainage and Erosion Control Design Manual.
3. Where easements are required for other than public utilities, then the location and width must be acceptable to the private utility company concerned with the approval of the Planning Commission.
4. Where any public or private utility line is required to be adjusted in location or elevation, the developer shall implement changes pursuant to the approval of the Transportation and Capital Improvements Department and the utility using the easement.
5. Where the proposed subdivision adjoins an unplatted property and a utility easement is to be dedicated on the adjacent property, then the adjacent property owner shall join in the dedication of the easement, which shall be shown on the plat.
6. Where utility easements are not themselves straight within each block, or if such easements do not connect on a straight course with the utility easements of adjoining blocks, then an additional easement shall be provided for the placing of guy wires on lot division lines in order to support utility poles, or utilities shall be placed underground.
7. Where two utility easements intersect or turn at a right angle, a cutoff or corner clip of not less than ten feet from the normal intersection of the property or easement line shall be provided along each property or easement line.

### 5.3.7 Sidewalks<sup>195</sup>

#### A. Requirement for Installation

Sidewalks shall be required at the time of platting, or building permit issuance, unless a variance is granted by the City Council, in accordance with the following:

1. On the subdivision or development side or sides of all major thoroughfares or arterial streets as indicated on the city's Thoroughfare Plan, and on perimeter streets.

<sup>193</sup> Proposed new standards.

<sup>194</sup> First provision is new. Others carry forward current Section 118-48.

<sup>195</sup> Section 118-49.



## Article 5: Subdivision Standards

### 5.3 Design Standards

#### 5.3.7 Sidewalks

2. On both sides of a street that serves as a local or collector street, except:
  - a. No sidewalks are required along a local residential large-lot street section, as shown in this chapter, where there is no parking on the street and where each lot has at least 100 feet of frontage;
  - b. When an alternative pedestrian access plan is approved; and
  - c. When a variance as described in §X.X, [Variance] is granted by the City Council.
3. As deemed necessary by the Planning Commission in any area based on uniformity along the street and conformity with the surrounding area.

#### B. Installation<sup>196</sup>

Sidewalks shall be installed at the street front of lots, along the street side of corner lots, and as required on perimeter streets. Sidewalks shall be constructed by the builder or developer in accordance with city standards and specifications ~~at such time as the lot is improved unless otherwise determined by the Planning Commission. For instance, where there would be no building improvement to the area adjacent to the sidewalk.~~

#### C. Escrow

Upon request of the applicant, the City Council may allow the applicant to deposit in escrow the cost of sidewalks on perimeter streets, as approved by the Transportation and Capital Improvements Department, for installation of sidewalks at a later date. The escrow money or letter of credit shall be deposited with the city prior to approval of a requested rezoning<sup>197</sup> or building permit, or prior to plat recordation, whichever is first.

#### D. Plat Note

A note shall be placed on the final plat indicating that sidewalks were required, upon which streets sidewalks were required and who is responsible for installation.<sup>198</sup>

#### E. Location of Sidewalks

1. Sidewalks shall be constructed in the right-of-way of the adjacent street, but may be in easements as approved by the Planning Commission. For instance, along TxDOT right-of-way where future improvements would damage the sidewalk or where the sidewalk is not adjacent to a street.
2. Sidewalks adjacent to one- to four-, along a local street, shall be placed in the right-of-way at least three feet from the curb or adjacent to the curb.
3. All sidewalks adjacent to collector streets, arterial streets, or TxDOT highways shall be separated by at least four feet from the curb or edge of the shoulder.

#### F. Pedestrian and Bikeways

Pedestrian and bikeways<sup>199</sup>, six feet or greater in width, located in the right-of-way or in a public access easement, shall be dedicated and constructed where identified in the Comprehensive Plan or other adopted plan, or deemed necessary by the Planning Commission, to provide circulation or access to schools, playgrounds, parks, shopping centers, arterial streets, and community facilities, or to provide pedestrian circulation within subdivisions. For instance, the Commission may require such pedestrian or bikeways along perimeter streets. All culs-de-sac shall have a pedestrian or bicycle path connecting to the sidewalk, street, or trail behind the cul-de-sac lots. See Figure X.X.

<sup>196</sup> Struck-through language is proposed to be deleted in response to stakeholder requests for more flexibility in the timing of sidewalk installation.

<sup>197</sup> Is it standard practice to require financial surety prior to approval of a request?

<sup>198</sup> Does this only apply in the event of sidewalk being deferred? If so, it would be clearer to specify that.

<sup>199</sup> Is there a difference between a pedestrian way and a sidewalk? Pedestrian way is a defined term, but the definition is very brief. If more information can be added, that would be helpful.

Pedestrian and bikeways shall be constructed by the developer with a surface approved by the Transportation and Capital Improvements Department.

#### G. Sidewalk Widths

Minimum sidewalk widths shall be as follows:

1. Along one- to four-family lots: Four feet.
2. Along multi-family or non-residential lots: Six feet.
3. In front of a commercial or multi-family building(s) where there is less than a ten-foot building setback: Ten feet.

#### H. Variances

A variance as described in §X.X, from sidewalk requirements may be requested in the following circumstances:

1. There are unique or unusual topographic, vegetative, or other natural conditions that make strict adherence to the sidewalk requirements contained herein physically infeasible;
2. Strict adherence to the sidewalk requirements contained herein is not in keeping with the purposes and goals of the Code of Ordinances and the city's comprehensive plan; or
3. There are public sidewalk or roadway improvements already are planned in the area.

#### I. Alternate Pedestrian Access Plan<sup>200</sup>

Rather than requiring sidewalks on both sides of all streets within a subdivision, or along a perimeter street, the applicant may present for Planning and Development Services Department approval an alternate plan showing pedestrian access within and to destinations outside the subdivision such as schools and shopping. Such a plan might provide for no sidewalks on cul-de-sac bubbles, on both sides of all streets, or where the street was wider than the minimum standards.

1. Alternate pedestrian access plans may be approved, disapproved or approved with conditions by the Planning and Development Services Department.
2. The alternate pedestrian circulation plan shall contain at a minimum the following information:
  - a. Letter explaining the purpose of the request;
  - b. Location and arrangement of sidewalks, multiuse trails and pathways;
  - c. Phasing or time schedule for the construction of the sidewalks, multiuse trails and pathways; and
  - d. Identification of the sidewalk segments required under this section that will not be constructed.

### 5.3.8 Off-Street Bikeways and Trails<sup>201</sup>

- A. Off-street bikeways or trails shall be provided by the subdivider/developer as shown on the bikeway plan of the comprehensive plan and as required in this section, if the city agrees to maintain the bikeway or trail.

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<sup>200</sup> Suggest changing this to further differentiate it from the Variance option. A variance could be pursued if an applicant does not intend to provide a sidewalk, owing to topography or hardship, and proposes no alternative. If an alternative is proposed, it could be reviewed under this option.

<sup>201</sup> Section 118-50.

B. The easement or right-of-way width and surface width of the bikeway or trail shall be determined by the Planning Commission at the time of plat approval.

### **5.3.9 Water, Sewer, and Drainage Facilities; Flood Hazards<sup>202</sup>**

#### **A. Generally**

The subdivider/developer shall dedicate, at their own cost, such rights-of-way and/or easements, and construct such water mains, water lines, fire hydrants, sanitary sewers, storm sewers, and drainage of such a size as to adequately serve the area being subdivided, as determined by the Transportation and Capital Improvements Department or the utility company under whose jurisdiction the subdivision falls. All facilities shall be constructed in accordance with the standards as set forth in this chapter and approved infrastructure construction plans.

#### **B. Water**

1. All subdivisions or developments shall be provided with water supply and water distribution systems constructed in compliance with this chapter.
2. Standard fire hydrants shall be installed as part of the water distribution system per specifications established by this chapter.
3. All subdivisions or developments shall provide each lot with fire flow according to the standards of chapter 54. Any subdivision or development that does not provide each lot with fire flow according to chapter 54 shall be declared to have an inadequate water system.

#### **C. Wastewater**

All subdivisions or developments shall be provided with a sewage disposal system constructed in compliance with this chapter and approved construction plans. Connection with the sanitary sewer system shall be required except where the Planning Commission, upon the recommendation of the Planning and Development Services Department, determines that such connection will require unreasonable expenditure, when compared with other methods of sewage disposal.

#### **D. Extension to Adjacent Development<sup>203</sup>**

Wherever the subject property adjoins undeveloped land served by the same utility provider, or wherever required by the Planning Commission to serve the public good, utilities shall be extended within proposed public rights-of-way to adjacent property lines to allow connection of these utilities by adjacent property owners when such adjacent property is platted and/or developed.

#### **E. Drainage**

##### **1. Drainage Requirements**

2. The subdivider or developer shall be responsible for submitting a drainage study with construction plans to the Transportation and Capital Improvements Department in accordance with the requirements of this chapter, chapter 143, and the drainage and erosion control and design manual. The drainage study shall be prepared by a professional engineer registered in the state. The study shall demonstrate to the Transportation and Capital Improvements Department's satisfaction that all ordinance and drainage and erosion control manual requirements are met. The developer shall be responsible for constructing the drainage improvements in accordance with the construction plans approved by the Transportation and Capital Improvements Department. The requirements of chapter 143 are

<sup>202</sup> Section 118-51.

<sup>203</sup> Proposed new language "served by the same utility provider" and "within public rights-of-way" in response to stakeholder comments.

adopted by reference in this chapter, except that in the ETJ, no provision concerning fees or charges is applicable.

**3. Easement**

Natural waterways and channels should be used to carry runoff, wherever practical. Any modification to existing waterways and channels must be approved by the Transportation and Capital Improvements Department. Where a subdivision is traversed by a watercourse, drainageway, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the one percent annual chance floodplain limits of such watercourse, plus additional width to accommodate future needs.

- a.** Storm drainage easements of 15 feet minimum width shall be provided for existing and proposed enclosed drainage systems. Easements shall be centered on the systems. Larger easements, where necessary, shall be provided as directed by the Transportation and Capital Improvements Department.
- b.** Storm drainage easements along proposed or existing open channels shall provide sufficient width for the required channel and such additional width as may be required to provide ingress and egress of maintenance equipment, to provide clearance from fences and space for utility poles, to allow maintenance of the channel bank, and to provide adequate slopes necessary along the bank.
- c.** Storm drainage easements shall provide emergency overflow drainageways of sufficient width to contain within the easement stormwater resulting from a one percent annual chance frequency storm assuming fully developed upstream watershed frequency storm less the amount of stormwater carried in any enclosed system.
- d.** For one- to four -family residential subdivisions, drainage easements crossing lots and property lines are prohibited. Drainage easements shall be placed in separate common area lots.

**4. Installation of Drainage System**

The subdivider/developer shall be responsible for providing an adequate drainage system approved by the Transportation and Capital Improvements Department that may consist of pipes, swales, natural features and manmade improvements that effectively carry runoff from the development. Detention ponds, retention ponds, and siltation ponds and/or improved storm water conveyance facilities, either on or off site, shall be used individually or in concert to control runoff and protect downstream interests from increased flooding from the subdivision or development.

**5. Topography of the Land**

In order to help reduce storm water runoff and resulting erosion, sedimentation and conveyance of non-point source pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines and shall minimize the amount of cut and fill on slopes in order to minimize the amount of land area that is disturbed during construction.

**F. Flood Hazards****1. Generally**

Proposed subdivisions or developments shall be developed to ensure that:

- a.** All such proposals are consistent with the need to minimize flood damage.
- b.** All public utilities and facilities, such as sewer, gas, electric and water systems are located, elevated, and constructed to minimize or eliminate flood damage.
- c.** Adequate drainage is provided to reduce exposure to flood hazards.

**2. Water and/or Wastewater Systems**

New or replacement water supply systems and/or wastewater systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems discharges from the systems

into floodwaters and to require on-site waste disposal systems to be located to avoid impairment of them or contamination from them during flooding.

**3. Floodplain**

- a. When a proposed subdivision or development has within it a drainageway where no regulatory floodway has been designated, no new construction, substantial improvements or other development, including fill, shall be permitted in an area that may have flood hazards, unless it is demonstrated that the cumulative effect of the proposed development or improvements, when combined with all other existing and anticipated development and improvements will not substantially increase the water surface elevation.
- b. In areas where there is an approved and mapped floodway, the subdivider or developer shall designate a drainage easement(s) for the floodway.
- c. In areas where a floodway is mapped and approved by the city, a flood study or demonstration of "no flood height increase" shall be required.
- d. If a proposed subdivision is within an area where flooding may occur, where there is no floodplain shown on a city-approved floodplain map, or where there is located an approved floodplain but no floodway, the subdivider shall:
  - i. Conduct a study of where the base flood elevation would be, assuming a fully developed watershed, show a drainage easement on the plat, and show the elevation of the flood plain at intervals of every 500 lineal feet;
  - ii. Conduct a study, using HEC or similar modeling that is approved by the Transportation and Capital Improvements Department, to ensure that the proposed development would not increase the elevation of the one percent annual chance base flood; or
  - iii. Request a variance from the above requirements. The variance request shall be assessed with respect to proposed density, land use, lot sizes, building sizes, anticipated impervious cover, and the width and depth of the existing floodplain. All requests for a variance from this section shall be considered and decided by the City Council after a recommendation by the Planning Commission.

**4. System Design Requirements**

Drainage improvements shall accommodate runoff from the upstream drainage area in its anticipated maximum "build-out" or "fully developed" condition, and shall be designed to prevent overloading the capacity of the downstream drainage system.

**5. Alterations to Existing Drainageways**

No person, individual, partnership, firm or corporation shall deepen, widen, fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainageway without first obtaining written permission (or approved engineering and drainage studies) and a grading permit from the Transportation and Capital Improvements Department and any other applicable agency having jurisdiction, such as FEMA or the U.S. Army Corps of Engineers. The costs of such study, if required, shall be borne by the developer.

**G. Access to Subdivision**

New "island" subdivisions, lots or streets that would be surrounded by the floodwater of the one percent annual chance flood shall not be allowed unless:

1. The area is accessible to high ground by a street elevated above the one percent annual chance flood level.
2. The evidence presented shows that the surface area and elevation of the "island" is sufficient to sustain the residents safely during a 0.75 percent annual chance flood.

## H. Drainage and Floodplain Easements

All storm drainage and flood easements and all base flood elevations shall be shown on the final plat with a plat note stating that no development or building or structure is permitted within the easement and stating who will be responsible for maintaining the easement. Flood and storm drainage easements shall be of adequate width to accommodate drainage flows and the width of such easements shall be subject to approval of the Transportation and Capital Improvements Department.

## 5.3.10 Escrow Policies and Procedures<sup>204</sup>

### A. Request for Escrow

1. Whenever this chapter requires a property owner to construct a street, sidewalk, drainage improvement, or other type of public improvement, the property owner may petition the city to construct the street or other public improvement at a later date, in exchange for deposit of escrow as established in this section, if unusual circumstances, such as a timing issue due to pending roadway improvements by another agency such as TxDOT or the applicable county, exist that would present undue hardships or that would impede public infrastructure coordination or timing.
2. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, for instance as demonstrated by a traffic impact analysis, the City Council may prioritize roadways for which escrow is to be accepted and require the deposit of all funds attributable to the development in escrow accounts for one or more of such affected roadways.
3. The Transportation and Capital Improvements Department shall review the particular circumstances involved (a traffic impact analysis may be required to facilitate the Transportation and Capital Improvements Department's deliberations on the matter), and shall determine, at its sole discretion, whether or not provision of escrow deposits will be acceptable in lieu of the property owner's obligation to construct the street, sidewalk or other public improvement with their or her development.

### B. Escrow Deposit with the City

Whenever the City Council agrees to accept escrow deposits in lieu of construction by the owner of the property under this chapter, the property owner or developer shall deposit in escrow with the city an amount equal to their share of the costs of "turnkey" design, construction, permits, reviews and approvals, inspections, any additional land acquisition, and an appropriate inflation factor to be determined by the Transportation and Capital Improvements Department to ensure that the actual "future dollar" costs will be covered when actual bid pricing and construction occur in the future. Such amount shall be reviewed by the Transportation and Capital Improvements Department, and shall be paid prior to release of construction plans by the Transportation and Capital Improvements Department, or if there are no construction plans, prior to recording the plat. The obligations and responsibilities of the property owner shall become those of the property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

### C. Termination of Escrow

Escrows or portions of escrowed amounts, which have been placed with the city under this section and which have been held for a period of ten years from the date of such payment or agreement, in the event that the city has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner along with one-half of its accrued interest. Such return

<sup>204</sup> Section 118-52.

does not remove any obligations of the property owner for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.

**D. Refund**

If any street or highway for which escrow is deposited is constructed by a party other than the city or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the property owner or applicant who originally paid the escrow amount after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the city and the other portion of the cost by another party or governmental authority, the difference between the property owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

**E. Interest Limitation**

If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with one-half of the accrued interest.

**F. Credit Toward Impact Fees**

All escrowed funds may be subject to credits against applicable impact fees.

**G. Petition for Relief**

The requirements of this section are subject to a petition for relief from a dedication or construction requirement, pursuant to this chapter.

## 5.3.11 Extraterritorial Jurisdiction Regulations

**COMMENTARY**

ETJ regulations are under separate review, and will be restored to the LDO draft once finalized.

[RESERVED]

## 5.3.12 Monuments and Lot Markers<sup>206</sup>

**A. Location of Monuments**

Monuments shall be set at each corner of the survey boundary of the subdivision and permanent lot markers shall be placed at each lot corner. Monuments and lot markers shall be set immediately after completion of utility installations and street construction, or as the Transportation and Capital Improvements Department may require.

**B. Requirements**

Monuments and lot markers shall be artificial monuments. An artificial monument considered permanent shall be construed as any mark or marker of relative permanence that if left undisturbed will remain in place for a period of at least 25 years. Monuments must be set at sufficient depth to retain a stable and distinctive location and be of sufficient size to withstand the deteriorating forces of nature. All monuments should be set in such a fashion as to remain stable against an applied force of approximately ten pounds from any direction for a duration in time of at least ten seconds. The monument material should be chosen in regard to the terrain and situation that exists at the site of monumentation. Where the view is obstructed between any two adjacent monuments, due to topographical conditions, permanent structures, or other conditions, intermediate monuments shall be so set as to assure a clear view between adjacent monuments. Lot markers shall be artificial monuments set at all angle points and at all points of curves.

<sup>206</sup>Section 118-54.

**C. Registered Surveyor**

A public surveyor, registered in the state, shall certify that the monument criteria of this section have been met.

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**5.3.13 Landscaping and Maintenance<sup>207</sup>****A. Vegetation**

Trees and groundcover should be preserved whenever possible. Existing trees, substantial vegetation and new plantings will be allowed within the right-of-way in accordance with this section. New planting shall only be those listed in the approved plant list in Appendix A.

**B. Landscape Features**

Subdivision entrance features, medians, median landscaping, islands, fence screening, landscaping, trees, and meandering sidewalks within the right-of-way are encouraged in locations where future street improvement, sidewalks, drainage improvements or utilities would not be located, or such landscaping or other improvements would not interfere with such utilities. Such features should be maintained by a property owner's association.

**C. Tree Location**

Trees shall be planted no closer than six feet from the street's curb or edge of a street's shoulder.

**D. Power Lines**

In no event may trees other than ornamental trees as described in §4.2, *Landscaping*, be planted under or within ten lateral feet of any overhead utility wire.

**E. Underground Utilities**

In no event may trees be planted over or within five lateral feet of any underground water line, sewer line, electric line or other utility line unless written consent of utility provider(s) is obtained.

**F. Maintenance**

It shall be the duty and the obligation of all owners and occupants of real property abutting upon a tree or tree part, including those trees or tree parts situated in the right-of-way, (excluding any median in a street), parkway, utility easement, drainage easement or other public way, to maintain, at the expense of said owner/occupant the tree or tree part in a safe condition and to trim, prune or remove any tree or tree part that is in an unsafe or hazardous condition.

**G. Maintenance of Lots/Property**

After completion of construction, it shall be the responsibility of the developer and/or lot owner to clean and keep clean the lot or lots to a condition satisfactory to the fire marshal and to remove and prevent grass and/or weed growth in the paved street area.

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<sup>207</sup> Section 118-55.

## 5.4 Park Land<sup>208</sup>

### 5.4.1 General Provisions

#### A. Purpose<sup>209</sup>

This section is adopted to provide public recreational areas in the form of neighborhood/community and regional park facilities as a function of subdivision and site development in the city and its extra-territorial jurisdiction (ETJ).

#### B. Designation of Necessity and Public Welfare

It is hereby declared by the City Council that public recreational areas in the form of neighborhood/community and regional parks are necessary and in the public welfare, and that the only adequate procedure to provide neighborhood/community and regional parks is to integrate such requirements into the procedure for planning and developing property or subdivisions in the city and its ETJ.

#### C. Planning Policy Guidance for Parks

The city has adopted by council action the comprehensive plan and the parks and recreation strategic master plan, as well as other master plans that serve as planning policy and guidance for the development of a municipal park and recreation system for the city. The plans assess the needs for park land and park improvements.

#### D. Establishment of Parks Districts

The park districts established by the City Council are shown in appendix X to this LDO and shall be prima facie proof that any park located therein is within a convenient distance from any residence located therein. The primary cost of neighborhood/community parks should be borne by the landowners of residential property who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

#### E. Authority

This article is enacted in accordance with the home rule powers of the city granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code Ch. 212 as may be amended from time to time.

#### F. Administration of this Section

The Planning and Development Services Department<sup>211</sup> shall administer this section, with certain review, recommendation and approval authorities being assigned to the Planning Commission, the parks and recreation advisory board, and various city departments as specified herein.

### 5.4.2 Applicability<sup>212</sup>

- A. This article applies to a landowner who develops land within the city or within its ETJ for residential use located. Typically, the landowner of a proposed residential development is the developer.
- B. Non-residential use is exempt.
- C. This article does not apply to activities involving the remodeling, rehabilitation, or other improvements to an existing residential structure, or to the rebuilding of a damaged structure.

<sup>208</sup> Chapter 118, Article V.

<sup>209</sup> Section 118-57. These new subheadings break up what is currently all grouped together in a long purpose statement.

<sup>211</sup> Relocated from current 118-60. Changed from city manager in current ordinance.

<sup>212</sup> Section 118-58.

D. If a dedication requirement arose prior to enactment or amendment of this article, subsequent development for the subject tract to which the dedication requirement applies may be subject to vesting as set forth in Texas Local Government Code Ch. 245. Additional dedication may be required if there is an increase in the number of dwelling units from what was originally proposed.

### **5.4.3 Park Land Dedication Requirements<sup>213</sup>**

As a condition of subdivision development, a developer of residential property shall be required to dedicate land for neighborhood/community and regional parks, pay of a fee in lieu thereof or a sanctioned alternative or a combination of both. In addition to the land dedication a developer of residential property shall park development fees for neighborhood/community and regional parks.

#### **A. Dwelling Unit Count**

Requirements in this section are based on actual dwelling units for an entire development. Increases or decreases in final unit count may require an adjustment in fees paid or land dedicated.

#### **B. Dedication/Fee Amounts**

The required land dedications and schedules of fees are attached to this LDO as **Appendix X** and incorporated and made a part of this section for all purposes.

#### **C. Dedication Standards**

Implementation process, minimum design and construction standards are set forth by the parks and recreation department in the park land dedication manual and the minimum drainage standards set forth by the city's drainage manual, as may be amended from time to time, referenced herein and incorporated by reference.

#### **D. Dedication Specifications**

The total amount of land dedicated for the development, public or private, shall be dedicated:

1. In fee simple by filed deed, if dedicated to the city; and
2. Prior to the issuance of any site development building permits for multi-family development,
3. Prior to recordation of the final plat for a one- to four-family or townhouse development, or
4. For a phased development the entire park shall be platted concurrently with the plat of the first phase of the development.

### **5.4.4 Park Land Dedication Procedures<sup>214</sup>**

- A. Any land dedicated under this article must be suitable for park and recreation uses and meet requirements in this §5.4.
- B. The following guidelines and requirements shall be used in the dedication and design of park land in conjunction with the park land dedication manual.
- C. When considering park land dedication, the developer should meet with the Parks and Recreation Department (PARD) before a development application is submitted to evaluate the suitability of the land. Additionally, PARD may request a site visit as a part of its determination. The following information may be required as a part of the process prior to accepting public park dedication:
  1. Lot dimensions or metes and bounds acreage of park land to be dedicated;
  2. Total acreage of floodplain, as well as land located outside floodplain;

<sup>213</sup> Section 118-60. New subheadings.

<sup>214</sup> Section 118-61. Revisit this section following drafting of Administration provisions in installment 3.

3. A tree survey;
4. A slope analysis; and
5. An environmental survey identifying critical environmental features, such as but not limited to species, habitat, and water features.

### **5.4.5 Park Land Acceptance Criteria<sup>215</sup>**

Any site proposed to be dedicated as park land to the city pursuant to the terms, conditions, and requirements under this section must be suitable for park and recreation uses; should support the goals of the parks strategic master plan and the city's comprehensive plan; and shall meet the criteria in this section.

#### **A. Encumbrances**

The site shall be free and clear of any and all liens and encumbrances that interfere with its use for park purposes and permit the city's representatives to make onsite inspections of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use.

1. A current title report shall be provided with the land dedication.
2. The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the city. A tax certificate from the county tax assessor shall be submitted with the dedication or plat.

#### **B. Environment and Natural Conditions**

1. Any soils, if disturbed, shall be restored and the soil stabilized by vegetative cover by the developer prior to dedication to the city.
2. The site shall not be severely sloping or have unusual topography that would render the land unusable for recreational activities.
3. The site shall not exceed a 20 percent grade on more than 50 percent of the land.
4. Where appropriate, sites with existing trees or other scenic elements are preferred and may be reviewed by the city's urban forester to make recommendations.
5. Rare, unique, endangered, historic, or other significant natural areas will be given a high priority for dedication pursuant to this section. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication.
6. The site should have well-drained and suitable soils and level topography.
7. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain if, due to its elevation, it is suitable for park improvements. At the discretion of the city, land in floodplains may be considered as part of a dedication requirement on a three for one (3:1) basis. That is, three acres of floodplain will be equal to one acre of park land or not more than 50 percent shall be allowed in a floodplain.
8. Detention/retention areas may not be used to meet dedication requirements but may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet specific specifications in the city's drainage manual.
9. If the property owner or developer has any form of environmental assessment on the site, a copy of that assessment shall be provided to the city. The city may initiate and/or require the

<sup>215</sup> Section 118-62. We have reorganized these requirements by topic group (currently they are random and cleaned up language for clarity and consistency).

developer to initiate specific environmental studies or assessments if the visual inspection of the site gives rise to the belief that an environmental problem may exist on the site. The Director of Parks and Recreation may require the employment of consultants necessary to evaluate any environmental issues relating to the site providing that the city makes such determination in good faith. If an environmental hazard is identified on the site, the developer must remove the hazard prior to its acceptance into the park and recreation system of the city. The city will not accept park land dedication sites encumbered by hazardous and or waste materials or dump sites.

### **C. Accessibility and Location**

1. The site should be easy to access and open to public view to benefit area development, enhance the visual character of the city, protect public safety, and minimize conflict with adjacent land use.
2. Where possible, the site should provide a connection to existing or future city park land, or provide an opportunity to expand an existing or future city park or trail.
3. Park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them.
4. Park sites shall be located within one-half mile<sup>216</sup> from all residences and the distance should be uninterrupted by roads or free from physical barriers that would prohibit walkable access to the park.
5. Where feasible, park sites should be located adjacent to schools to encourage shared facilities and joint development of new sites, access ways may be required to facilitate access to the park.
6. At least 25 percent, or proportionate to the size of the park, of the perimeter of a park, should abut a public street.
7. The site shall have direct street access for ease of pedestrian, bike, or parking accommodations.
8. No more than two sides of the park may abut the rear of homes.
9. The site shall include at least visible, attractive and suitable means of ingress and egress proportionate to the size and amenities in the park.

### **D. Land Requirements**

1. Park land requirements will be no less than two acres of contiguous land or the total park land required by appendix B.
2. Land parcels that are unsuitable for development are typically unsuitable for a neighborhood park, and therefore should be selected prior to a subdivision being platted and acquired as a part of the development process.

### **E. Utilities**

1. The developer shall be responsible for certain minimum utilities as listed below. The Director of Parks and Recreation shall approve such location prior to final approval and release of fiscal requirements of said subdivision.
  - a. A metered water supply located 12 feet behind the curb in accordance with the size of the park; and
  - b. A six-inch sewer stub, or in accordance with the size of the park, ten feet behind the curb.

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<sup>216</sup> Proposed reduction from the current one mile, to make this closer in line with industry standard of one-quarter mile. Other options could include making this based on walking or biking time, as opposed to just linear distance.

2. The site should not be encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.

#### 5.4.6 Fee-in-Lieu of Park Land<sup>217</sup>

The city may, from time to time, require that a fee be submitted in lieu of land dedication in amounts as set forth in appendix B for, either, both, some or all of neighborhood/community and regional park land dedications. Likewise, the city may, from time to time, require that land be dedicated in amounts as set for in appendix B that no fee in lieu of land will be accepted. Such fees shall be due at the same time as park development fees are due for final platting.

#### 5.4.7 Reimbursement for City-Acquired Park Land<sup>218</sup>

The city may, from time to time, acquire land for parks in advance of actual or potential development. If the city does acquire park land in a park quadrant for a neighborhood/community or regional park, the city may require subsequent dedications to be in fee in lieu of land only. This will be to reimburse the city for the cost(s) of acquisition.

#### 5.4.8 Park Development Fee<sup>219</sup>

- A. In addition to the park land dedication requirements, park development fees are established herein, sufficient to develop neighborhood/community and regional public parks in ways that meet the city's standards.
- B. The amount of development fees assessed to a development and the basis for the calculation is as shown in appendix B. The process for the approval and collection of development fees shall be the same as for the park land dedication requirements as specified in sections 118-60.1 and 118-60.3. The park development fees shall be processed simultaneously with the park land dedication requirements.

#### 5.4.9 Public Park Improvement in lieu of Park Development Fees<sup>220</sup>

- A. With approval of the city,<sup>221</sup> a developer may elect to construct required park improvements in lieu of paying the associated development fee as set forth herein. In such event, facilities and improvements provided by a developer shall be constructed on lands dedicated as public park land and shall be designed and installed to meet the terms, conditions and requirements under this article, or as otherwise approved by the Director of Parks and Recreation, in accordance with related federal, national, state or local codes including but not limited to the following:
  1. International Play Equipment Manufacturer's Association (IPEMA);
  2. Consumer Product Safety Commission (CPSC) Handbook for Public Safety;
  3. American Society for Testing and Materials (ASTM and ASTM F08);
  4. Accessibility Standards for Play Areas through the ADA Accessibility Guidelines (ADAAG);
  5. Illuminating Engineering Society of North American (IESNA RP-6-01); and
  6. Sports Turf Management Association (STMA).
- B. General requirements for public park improvements.

<sup>217</sup> Section 118-63.

<sup>218</sup> Section 118-65.2.

<sup>219</sup> Section 118-64.

<sup>220</sup> Section 118-65.

<sup>221</sup> What entity at the city can approve this? Provision should be more specific.

1. A park site plan, developed in cooperation with the parks and recreation department staff, is submitted and approved by the Director of Parks and Recreation or their designee prior to submission of final plat or upon application for a site building permit, whichever is applicable.
2. Any public park improvements must be shown on the site plan or construction plan, unless the Director of Parks and Recreation authorizes another method of approval, and requires review and approval of the Transportation and Capital Improvements Department.
3. Detailed plans and specifications for park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to public improvements for final plats and for building permit issuance, whichever is applicable.
4. All plans and specifications shall meet or exceed the city's standards in effect at the time of submission.
5. If the improvements are constructed on land that has already been dedicated to and/or is owned by the city, then the developer must post payment and performance bonds equal to park development fees or value of the park agreed upon, whichever is greater to guarantee the payment to subcontractors and suppliers and to guarantee the developer completes the work in accordance with the approved plans, specifications, ordinances, and other applicable laws. This includes guaranteeing performance in lieu of completing the park improvements prior to final plat recordation.
6. Park improvements may be constructed on park land dedicated to the city that satisfies requirements of section 118-62; or, if approved by the Director of Parks and Recreation, improvements may be made in an existing or proposed city park that is located in the appropriated park district, within a one-half-mile to one-mile walking or biking distance to the residents it will serve.
7. For a public park, the developer shall be required to provide a two-year maintenance bond that is equal in amount to the 20 percent of the construction cost of said park improvements and a manufacturer's letter stating any play structure, equipment, and safety surfaces were installed in accordance with the manufacturers' installation requirement.
8. For a public park, the developer shall provide a copy of the application and subsequent inspection report prepared by the state department of licensing and regulation of their contracted reviewer for compliance with the Architectural Barriers Act, codified as Vernon's Ann. Civ. St. art 9102.
9. For a public park, all manufacturers' warranties shall be provided for any equipment installed in the park as part of these improvements.
10. For a public park, upon issuance of a certificate of completion and acceptance, the developer shall warrant the improvements for a period of two years.
11. For a public park, the developer shall be liable for any costs required to complete park development if:
  - a. Developer fails to complete the improvements in accordance with the approved plans; or
  - b. Developer fails to complete any warranty work.
12. All public park improvements shall be inspected by the city while construction is in progress and when complete to verify park requirements have been satisfied.
13. Once the public park improvements are constructed, and after the Director of Parks and Recreation has accepted such improvements, the developer shall convey such improvements to the city free and clear of any lien or other encumbrances.
14. The public park improvements will be considered complete with a letter of completion and acceptance from the city and will be issued after the following requirements are met:
  - a. Improvements have been constructed in accordance with the approved plans;

- b.** Improvements have been inspected and reviewed by PARD staff for satisfying park ordinance pursuant to the terms, conditions and requirements under this article.

**C. Private Parks<sup>222</sup>****1. Credit for Private Parks**

- a.** The fee in-lieu-of land dedication is not eligible for reimbursement and shall be paid at the amount calculated in appendix B and section 118-63.
- b.** Up to 75 percent of the park development fees paid by a developer may be eligible for reimbursement toward the construction of private park facilities pursuant to the terms, conditions, and requirements under this article and in the park land dedication manual. The amount retained for deposit in the city's park land dedication fund are for purposes of defraying the financial burden private subdivisions impose on the existing public park system in New Braunfels.

**2. Private Park Improvements Requirements**

- a.** Yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulation ordinances shall not be included in the computation privately-owned and maintained by the future residents of the subdivision or by the owner of the rental facility.
- b.** Private ownership and maintenance of the private park and open space is adequately provided for by recorded agreement, covenants or restrictions.
- c.** Use of the private park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors.
- d.** Facilities must be similar or comparable to what would be required to meet public park standards and recreational needs as set forth in sections 118-62 and 118-65 and the park land dedication manual, city drainage manual, and other national, federal, state and local laws.
- e.** Eligible private park improvements include various active and passive outdoor amenities.
- f.** Private park design must be reviewed and approved by the Director of Parks and Recreation prior to the platting of the first unit, if a multi-phased development.
- g.** Private park must include at least three signature elements, two complementary park elements and include the standard park improvements requirements set forth in the park dedication manual.
- h.** The cost of construction for private parks must meet or exceed the full park development fee per dwelling unit from appendix B.
- i.** Before a reimbursement is approved, the city shall make written findings that the certain conditions are met, pursuant to this article and the park land dedication manual, including the following, but not limited to:
  - i.** Developer is required to submit all invoices and checks paid toward the construction of the private park.
  - ii.** Developer must allow PARD staff to conduct a site visit to verify private park improvements.
  - iii.** Developer must provide an affidavit stating the cost of private park improvements meet or exceed the required full park development fee per dwelling unit from appendix B.
- j.** All private parks should be constructed no later than prior to the application of the final unit. Fees for in-lieu-of land and park development are due at the time of recordation.

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<sup>222</sup> Section 118-65.1.

3. Required documentation. In order to receive the reimbursement for private parks, the developer shall submit the required documentation in section 118-60 to the city at the time of final plat filing sufficient to establish that the requirements of above have been satisfactorily met. The Director of Parks and Recreation shall evaluate and approve the documentation submitted prior to any credit being given.

**D. Application Review Process<sup>223</sup>**

With each subdivision application, planned development application, mixed-use and multi-family site development permit, the developer shall submit to the Planning and Development Services Department and the Parks and Recreation Department a completed park land dedication worksheet, identified in **Appendix X** and a letter indicating the developer's intent to meet the park land dedication requirements pursuant to this article.

**E. Appeal Process<sup>224</sup>**

1. Any decision under this article made by the Director of Parks and Recreation may only be appealed to the city parks and recreation advisory board and must be appealed within ten working days of the city's decision.
2. The Director of Parks and Recreation may refer approval of park land dedication or park development fees to the city parks and recreation advisory board for any reason.
3. Within ten working days, any decision made by the city parks and recreation advisory board may only be appealed in writing through the city manager to the City Council.

**F. Submitting Park Fees<sup>225</sup>**

Any fees required to be paid pursuant to this article shall be remitted:

1. Prior to the issuance of any site development building permits for multi-family development, or mixed-use development; or
2. At the time of plat recordation for one- to four-family or townhouse development; however
3. All development in the ETJ must pay fees at the time of plat recordation.

**G. Use of Park Fees<sup>226</sup>**

All park land dedication and park development fees for neighborhood/community parks will be deposited in a fund referenced to the park district to which they relate. Regional park land dedication fees will be deposited in a fund referenced to regional parks. Funds shall be used solely for the acquisition or leasing of park land and the development, improvement, or upgrades of new and existing parks. All expenditures shall be administered in accordance with the current purchasing requirements of the city. Funds shall not be used for the operation and maintenance of parks.

**H. Right to Refund<sup>227</sup>**

The city shall account for all fees in lieu of land and all development fees paid under this article with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the city within seven years from the date received by the city for acquisition and/or development of a park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the payor shall be entitled to a prorated refund of such sum,

<sup>223</sup> Section 118-65.3. Consider relocating to the Administration article with installment 3.

<sup>224</sup> Section 118-65.4. This is somewhat different from a Common Procedures appeal, but could become part of the application-specific procedures.

<sup>225</sup> Section 118-65.5.

<sup>226</sup> Section 118-65.6.

<sup>227</sup> Section 118-65.8.

## Article 5: Subdivision Standards

### 5.4 Park Land

#### 5.4.9 Public Park Improvement in lieu of Park Development Fees

computed on a square footage of area basis. The payor must request such refund within one year of entitlement, in writing, or such right shall be barred.

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## **Article 6: Historic Preservation**

[To be included in Installment 4.]

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## **Article 7: Signs**

[To be included in Installment 4.]

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## **Article 8: Administration and Procedures**

[To be included in Installment 3.]