SUBDIVISION ORDINANCE
City of Forney, Texas

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Adopted on July 20, 2000
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I. GENERAL PROVISIONS

Section 1.1: Authority

1.1 The following rules and regulations are hereby adopted as the Subdivision Ordinance of the City of Forney, Texas, also known and cited as the “Forney Subdivision Ordinance,” and shall be applicable to the filing of plats and the subdivision of land, as that term is defined herein and in Chapter 212 of the Texas Local Government Code, within the corporate City limits of the City of Forney, as they may be from time to time adjusted by annexation or disannexation, and within all the areas of the extraterritorial jurisdiction of the City of Forney, as that area may exist from time to time as provided by Chapter 42 of the Texas Local Government Code. 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.

Section 1.2: Interpretation and Purpose

1.2 In the interpretation and application of the provisions of these regulations, it is the intention of the City Council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions within the City of Forney and its extraterritorial jurisdiction, and repealing the previous Subdivision Ordinance (Chapter 9, Code of Ordinances, as adopted and as amended) in its entirety.

The subdivision of land is the first step in the process of urban development. The distribution and relationship of residential, commercial, industrial and agricultural uses throughout the community, along with the system of improvements for thoroughfares, utilities, public facilities and community amenities, determine, in large measure, the quality of life enjoyed by the residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community's quality of life and overall character. A community's quality of life is of the public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of adequate light, air, open space, storm water drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe and efficient community that provides for the conservation, enhancement and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations, are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the requirements in this Ordinance further the possibility that land will be developed for its most beneficial use in accordance with existing social, economic and environmental conditions.

The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the City of Forney, Texas are intended to:

a. Promote the development and the utilization of land in a manner that assures the best possible community environment in accordance with the Comprehensive Plan and the Zoning Ordinance of the City of Forney;

b. Guide and assist the developers in the correct procedures to be followed, and to inform them of the standards which shall be required;

c. Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities and essential areas and services required;
d. Assist orderly, efficient and coordinated development within the City limits and extraterritorial jurisdiction;

e. Provide neighborhood conservation and prevent the development of slums and blight;

f. Harmoniously relate the development of various tracts of land to the existing community, and facilitate the future development of adjoining tracts;

g. Provide that the cost of improvements to minimum standards which primarily benefit the tract of land being developed be borne by the owners or developers of the tract, and that the cost of improvements to minimum standards which primarily benefit the whole community be borne by the whole community as contained in this Ordinance;

h. Provide the best possible design for each tract being subdivided;

i. Provide the most attractive relationship between the uses of land and buildings; provide for the circulation of traffic throughout the municipality, having particular regard to the avoidance of congestion in the streets and highways; provide for pedestrian circulation that is appropriate for the various uses of land and buildings; and provide the proper location and width of streets;

j. Prevent pollution of the air, streams and ponds; assure the adequacy of drainage facilities; safeguard both surface and groundwater supplies; and encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;

k. Preserve the natural beauty and topography of the municipality, and ensure development that is appropriate with regard to these natural features;

l. Establish adequate and accurate records of land subdivision;

m. Ensure that public or private facilities are available and will have sufficient capacity to serve proposed and future subdivisions and developments within the City and its extraterritorial jurisdiction;

n. Protect and provide for the public health, safety and general welfare of the community;

o. Provide for adequate light, air and privacy; secure safety from fire, flood and other danger; and prevent overcrowding of the land and undue congestion of population;

p. Protect the character and the social and economic stability of all parts of the community, and encourage the orderly and beneficial development of all parts of the community;

q. Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land, and minimize conflicts among the uses of land and buildings;

r. Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities; and

s. Encourage the development of a stable, prospering economic environment.

Minimum standards for development are contained in the City’s Engineering Design Standards (EDS), related technical standards, the Zoning Ordinance, the Building Code and in this Ordinance. However, the Comprehensive Plan and Future Land Use Plan express policies designed to achieve an optimum quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design shall be of a quality that will carry out the purpose and spirit of the policies expressed within the Comprehensive Plan and within this Ordinance, and shall be encouraged to exceed the minimum standards required herein.

Section 1.3: Application of Regulations
1.3 No subdivision plat shall be recorded until a final plat, accurately describing the property to be conveyed, has been approved in accordance with the Subdivision Ordinance. Furthermore, no building permit, certificate of occupancy, plumbing permit, electrical permit, flood plain permit, utility tap, or certificate of acceptance for required public improvements shall be issued by the City for any parcel of land or plat until:

a. A final plat has been approved in accordance with these regulations; and
b. All improvements, as required by these regulations, have been constructed and accepted by the City of Forney, or
c. Assurances for completion of improvements have been provided in accordance with Section 6.

Section 1.4: Jurisdiction

1.4 The provisions of this Subdivision Ordinance, as authorized by Subchapters A and B of Chapter 212 of the Texas Local Government Code, including the Engineering Design Standards (EDS), shall apply to the following forms of land subdivision and development activity within the City’s limits and its extraterritorial jurisdiction:

a. The division of land into two or more tracts, lots, sites or parcels; or
b. All subdivisions of land whether by metes and bounds division or by plat, which were outside the jurisdiction of the City’s subdivision regulations in Kaufman County, Texas and which subsequently came within the jurisdiction of the City's subdivision regulations through:
   1. Annexation; or
   2. Extension of the City's extraterritorial jurisdiction; or

c. The combining of two or more 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

d. When a building permit is required for the following uses:
   1. Residential single-family and duplex
      (a) New construction
      (b) Moving of a primary structure onto vacant property
   2. Nonresidential and multi-family
      (a) New construction
      (b) Additions (increasing square footage of existing building by more than twenty percent [20%] of the gross floor area); or
      (c) Moving a primary structure onto vacant property; or

e. For tracts where any public improvements are proposed; or

f. Whenever a property owner proposes to divide land lying within the City or its 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 (5) acres in size; or in the event that development of any such tract is intended, and where no public improvement is proposed to be dedicated, he shall first obtain approval of a development plat that meets the requirements of Texas Local Government Code Chapter 212, Subchapter B, Regulation of Property Development, Sections 212.041 through 212.050. (See Section 2.7 of this Ordinance for requirements for development plats.)
Section 1.5: Exemptions

1.5 The provisions of this Subdivision Ordinance shall not apply to:

a. Development of land legally platted and approved prior to the effective date of this Ordinance, except as otherwise provided for herein (construction of facilities shall conform to construction standards in effect at the time of construction) and for which no re-subdivision is sought; or

b. Development of a lot of record for which a legally approved and recorded plat was filed of record in the Plat Records of Kaufman County, Texas prior to July, 1973; or

c. Sale, inheritance, or gift of land by metes and bounds of tracts upon which no improvements, subdivision or alteration is occurring; or

d. Existing cemeteries complying with all State and local laws and regulations (does not apply to new cemeteries or expansion of existing cemeteries); or

e. Divisions of land created by order of a court of competent jurisdiction; or

f. When a building permit is requested for unplatted or already platted parcels for the following activities:

1. Replacement or reconstruction of an existing primary single-family or duplex structure, but not to exceed the square footage of the original structure

2. Additions (i.e., increasing square footage of structure) of not over fifty percent (50%) of the existing structure's value, and of not over twenty percent (20%) of the gross floor area

3. Accessory buildings

4. Remodeling or repair (i.e., no expansion of square footage)

5. Moving a structure off a lot or parcel, or for demolition permits.

Section 1.6: Applicable Law

1.6 All applications for plat approval, including final plats, that are pending on the effective date of this Ordinance and which have not lapsed shall be reviewed under the regulations in effect immediately preceding the effective date of this Ordinance.

Section 1.7: Interpretation; Conflict; Severability

1.7 a. Interpretation. In their interpretation and application, the provisions of the regulations contained in the Subdivision Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

b. Conflict With Other Laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. To the extent that the Subdivision Ordinance promulgates standards or imposes restrictions or duties which differ from those imposed by other City ordinances, rules or regulations, the regulations contained within the Subdivision Ordinance shall supersede such other provisions to the extent of any conflict or inconsistency.

c. Severability. If any part or provision of the Subdivision Ordinance, or the application of these regulations to any person or circumstance, is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered, and it shall not affect or impair the validity of the remainder of these
Section 1.8: Saving Provision

1.8 This Ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of the Subdivision Ordinance, or as vacating or annul...
exceeds reasonable benefit to the property owner, or is so excessive as to constitute confiscation of the tract to be platted, it may approve a waiver/suspension to such requirements, so as to prevent such excess.

c. **Conditions.** In approving a waiver/suspension, the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.2.

d. **Procedures:**

1. A petition for a waiver/suspension shall be submitted in writing by the property owner at the time when any type of plat (e.g., preliminary, final, replat, development plat, etc.) is filed for the consideration of the Planning and Zoning Commission and City Council. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner.

2. Where a hardship is identified in a land study which will result in a request for a waiver/suspension, the Planning and Zoning Commission may recommend a conditional waiver/suspension in conjunction with land study approval. A conditional waiver/suspension shall receive final approval along with a final plat provided that the final plat conforms to the previously approved land study or preliminary plat, and that no new information or reasonable alternative plan exists which, at the determination of the City Council, voids the need for a waiver/suspension. All waivers/suspensions shall have final approval or disapproval by the City Council.

e. **Criteria for Waivers/Suspensions for Street Exactions.** Where the City Council finds that the imposition of any dedication or construction requirement for streets pursuant to these regulations exceeds reasonable benefit to the property to be platted, it may approve waivers/suspensions for such requirements so as to prevent such excess. In order to qualify for a waiver/suspension under this Section, the property owner shall demonstrate that the costs of right-of-way dedication and/or construction for non-local streets imposed pursuant to these regulations substantially exceeds the incremental costs of providing land and transportation improvements necessary to offset the additional traffic impacts generated by, or attributable to, the development upon the transportation network serving the property, including that which may be generated by or attributed to other phases to be platted.

**Section 1.12: Enforcement; Violations; Penalties**

1.2 In addition to all other remedies and relief available to the City at law or in equity for a violation of this Subdivision Ordinance, the following non-exclusive forms of relief shall be available to the City:

a. **Violations and Penalties.** Any person who violates any of these regulations for lands within the corporate boundaries of the City shall be subject to a fine of not more than five hundred dollars ($500.00) per day, with each day constituting a separate violation, pursuant to the Texas Local Government Code, Chapter 54, as amended.

b. **Civil Enforcement.** Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct or abate a violation of these regulations, whether such violation occurs with respect to lands within the corporate boundaries of the City or within the City’s extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

c. **Withholding of Subdivision Acceptance.** Pursuant to the provisions of Section VI, Requirements for Acceptance of Subdivisions by the City of Forney, the City may refuse to grant final acceptance of a subdivision that does not fully and completely comply with all terms and conditions of this Subdivision Ordinance including, but not limited to, the refusal to issue building permits and certificates of occupancy.
Section 1.13: Payment of All Indebtedness Attributable to a Specific Property

1.13 No person who owes delinquent taxes, delinquent paving assessments, or any other delinquent debts or obligations to the City of Forney, and which are directly attributable to a piece of property, shall be allowed to record an approved plat or replat until the taxes, assessments, debts and/or obligations directly attributable to said property and owed by the owner or previous owner thereof shall have been first fully discharged by payment, or until an arrangement satisfactory to the City Manager (or designee) 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 and/or obligations have been paid at the time of application for any subdivision approval (i.e., land study or any type of plat).

Section 1.14: Right to Deny Hearing and/or Plat

1.14 The City shall have the right to deny a hearing and/or deny any land study or plat if the person or applicant proposing a subdivision of land does not submit the information required to be shown on a land study/plat and the required application materials and fees (see Appendix B) as prescribed by this and other ordinances.

Section 1.15: Misrepresentation of Facts Unlawful

1.15 a. Misrepresentation of Facts. It shall be unlawful for any person to knowingly or willfully misrepresent, or fail to include, any information required by this Ordinance on any application for annexation, zoning, development or subdivision of property. Misrepresentation, or deliberate omission, of facts pertaining to the land study or plat shall constitute grounds for denial of the land study/plat.

b. Penalties and Exceptions. If any applicant for such hearing, or any owner of property subject to such hearing, shall allow such hearing before the Planning and Zoning Commission and/or the City Council to be heard in violation of any of the provisions of the Ordinance, such person shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a penalty as per Section 1.12.

Section 1.16: Definitions

1.16 For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

a. Addition. A lot, tract or parcel of land lying within the corporate boundaries of the City or its extraterritorial jurisdiction which is intended for the purpose of development.

b. Administrative Officers. Any office referred to in this Ordinance by title (i.e., City Manager, City Attorney, City Secretary, Building Official, City Engineer, Director of Public Works, etc.), shall be the person so retained in this position by the City, or his duly authorized representative (i.e., designee). This definition shall also include engineering, planning, legal and/or other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.

c. Alley. A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street. The length of an alley segment is to be measured from the right-of-way lines (i.e., alley entrance points) of the streets from which the alley is provided access (including any turnouts).

d. Amended Plat. A revised plat correcting errors or making minor changes to the original recorded final plat. Also termed “amending plat”.
e. **Amenity.** An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.

f. **Base Flood.** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

g. **Block Length.** For a residential subdivision, that distance measured along the centerline of the street from the intersection centerpoint of one through street (i.e., not a cul-de-sac or dead-end/looped street) to the intersecting centerpoint of another; or to the midpoint of a cul-de-sac. Also termed “street length”.

h. **Bond.** Any form of a surety bond in an amount and form satisfactory to the City.

i. **Building Setback Line.** The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street (or property) line.

j. **Capital Improvements Program (CIP).** The official proposed schedule of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.

k. **City.** The City of Forney, Texas, together with all its governing and operating bodies.

l. **City Engineer.** “City Engineer” shall apply only to such registered professional engineer, or firm of registered professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters.

m. **City Manager.** The person holding the position of City Manager, as appointed by the City Council and according to the City Charter.

n. **Commission.** The Planning and Zoning Commission of the City.

o. **Comprehensive Plan.** The phrase “Comprehensive Plan” shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council and the City Planning and Zoning Commission, including all its revisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water/wastewater facilities, and other public and private developments and improvements.

p. **Concept Plan.** A sketch drawing of initial development ideas superimposed upon a topographic map to indicate generally the plan of development, and to serve as a working base for noting and incorporating suggestions of the City Manager (or designee), Planning and Zoning Commission, City Engineer, or others who are consulted prior to the preparation of the preliminary plat.

q. **Construction Plans or Drawings.** The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the City as a condition of approval of the plat.

r. **Contiguous.** Lots are contiguous when at least one boundary line of one lot touches a boundary line, or lines, of another lot.

s. **Council.** The duly elected governing body of the City of Forney, Texas.

t. **Cul-De-Sac.** A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround (“bulb”). The length of a cul-de-sac is to be measured from the intersection centerpoint of the adjoining through street to the midpoint of the cul-de-sac bulb.

u. **Dead-End Street.** A street, other than a cul-de-sac, with only one outlet.

v. **Easement.** The word "easement" shall mean an area for restricted use on private property upon which the City and/or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and/or other
improvements or growths which in any way endanger or interfere with the construction, maintenance and/or efficiency of its respective systems within said easements. Public utilities shall, at all times, have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.

w. **EDS.** The City of Forney’s Engineering Design Standards for the construction of subdivision improvements. (See Appendix A of this Ordinance).

x. **Engineering Design Standards (EDS).** Those standards and specifications established by the City to ensure proper installation of the improvements required by this Ordinance. (See Appendix A of this Ordinance).

y. **Escrow.** A deposit of cash with the City in accordance with City policies.

z. **Filing Date.** The filing date (i.e., development application submittal date) is when all necessary forms, fees, and copies are submitted and accepted for filing by action of issuance of a fee receipt by the City.

aa. **Final Plat (also “Record Plat” or “File Plat”).** The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the records of Kaufman County, Texas. An amended plat is also a final plat.

bb. **Improvement or Developer Agreement.** A contract entered into by the developer and the City, by which the developer promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

c. **Land Study.** A general layout plan for an area proposed for partial or complete subdivision. The land study shall show the proposed locations of land uses, streets, phasing of development, important physical features, and other applicable information for the entire area to be subdivided.

dd. **Land Planner.** Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, and/or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).

e. **Lot (also Lot of Record).** A divided or undivided tract or parcel of land having frontage on a public street, and which is, or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

ff. **Major Plat.** All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other City Ordinance.

gg. **Minor Plat.** A subdivision resulting in four (4) or fewer lots, provided that the plat is for conveyance purposes only (i.e., sale of the property with no development/construction proposed), that the plat does not create any new easements for public facilities, or that the construction/development of said subdivision will not require the construction of any new street (or portion thereof) or the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be
served by all required City utilities and services. If the development of any lot within the proposed subdivision will require the construction of a new street (or portion thereof) or a public improvement (e.g., water or sewer line, drainage facility, required screening wall, etc.), then the plat shall be classified as a major plat.

hh. **On-Site Facilities or Improvements.** “On-site” shall mean those existing or proposed facilities or improvements constructed within the property boundaries of the plat. “On-site” shall also mean those existing or proposed facilities required to be constructed or improved immediately adjacent to the property and which are required to serve the development. These include streets, alleys, water lines, sewer lines, storm drainage facilities, curbs and gutters, and any other construction or reconstruction needed to serve the property.

ii. **Off-Site Facilities or Improvements.** “Off-site” facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

jj. **Overlength Street** (or Cul-De-Sac or Alley). A street segment (or a cul-de-sac or alley segment) which exceeds the maximum length allowed by this Ordinance (see Section 3.1), as measured along the centerline of the street from the intersection centerpoint of one through street (i.e., not a cul-de-sac or dead-end/looped street) to the intersecting centerpoint of another (or to the midpoint of a cul-de-sac, or for an alley segment, to the right-of-way lines [i.e., alley entrance points] of the streets from which the alley is provided access, including turnouts).

kk. **Pavement Width.** The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.

ll. **Perimeter Street.** Any existing or planned street which abuts the subdivision or addition to be platted.

mm. **Person.** Any individual, association, firm, corporation, governmental agency, or political subdivision.

nn. **Planning and Zoning Commission.** The Planning and Zoning Commission of the City of Forney, Texas. Same as “Commission”.

oo. **Preliminary Plat.** The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, shown by superimposing a scale drawing of the proposed land division upon a topographic map and showing in plan view all existing and proposed drainage features and facilities, street layout, direction of curb flow and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

pp. **(Reserved)**

qq. **Replatting.** "Replatting" (or to “replat”) is the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

rr. **Right-of-Way.** A parcel of land occupied, or intended to be occupied, by a street or alley. Where appropriate, “right-of-way” may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and/or gas facilities; water or sanitary/storm sewer facilities; or for any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and shall not be included within the dimensions or areas of such lots or parcels.
ss. **Street.** A right-of-way, however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

1. Major thoroughfares (arterial streets, primary thoroughfares, etc.) provide vehicular movement from one neighborhood to another, to distant points within the urban area, and/or to freeways or highways leading to other communities.

2. Collector streets (“feeder” streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods, and from local streets to major thoroughfares.

3. Local residential streets (minor thoroughfares or streets, etc.) are primarily for providing direct vehicular access to abutting residential property.

**tt. Street Improvements.** For the purpose of this Ordinance "street improvements" mean any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, and including but not limited to sidewalks, drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.

**uu. Street Right-of-Way.** The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.

**vv. Subdivider.** Any person, or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, such as a developer, of land sought to be subdivided.

**ww. Subdivision (also “Addition”).** A division or redivision of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of such limits, for the purpose of transfer of ownership; layout of any subdivision of any tract of land or addition; or for the layout of building lots or streets, alleys or other components for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

**xx. Substandard Street.** An existing street or road that does not meet the minimum specifications in the Standard Street Specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City’s Thoroughfare Plan. A standard street is a street or road that meets or exceeds said standard specifications and its designation on the City’s Thoroughfare Plan.

**yy. Surveyor.** A licensed land surveyor or a registered public surveyor, as authorized by State statutes to practice the profession of surveying.

**zz. Temporary Improvements.** Improvements built and maintained by the property owner or subdivider that are needed to remedy a circumstance that is temporary in nature (e.g., a temporary drainage easement or erosion control device), and that will be removed upon completion of the subdivision or shortly thereafter (i.e., is not intended to be permanent).
II. PROCEDURES

Section 2.1: Pre-Application Procedures

2.1 The subdivider(s) should avail themselves of the advice and assistance of the City officials, and should consult early and informally with the City Manager, the City Engineer, the Building Official, and/or other designated administrative officers before preparing a land study or any type of plat (e.g., a preliminary plat, final plat, development plat, amended plat, replat, etc.) in order to save time, money and to avoid unnecessary delays. Prior to formal application for approval of any land study or plat (e.g., preliminary, final, amending, replat, development, etc.), the subdivider(s) shall request and attend a pre-application conference with the City Manager (or designee), the City Engineer, the Building Official, and any other pertinent City official(s) in order to become familiar with the City’s development regulations and the development/subdivision process. At the pre-application conference, the developer/subdivider may be represented by his land planner, engineer and/or surveyor.

Section 2.2: Statutory Procedures

2.2 a. Zoning Requirements. A property within the City’s corporate limits that is being proposed for platting must be properly zoned for the proposed use(s) (see the City of Forney’s Zoning Ordinance and Zoning Map) before a preliminary or final plat can be approved or filed for record. In addition, the proposed development layout/subdivision design shown on the preliminary or final plat must be in conformance with all standards and requirements prescribed in the City’s Zoning Ordinance before the plat can be approved or filed. Noncompliance with the requirements of the zoning district in which the subject property is located (or lack of the proper zoning) shall constitute grounds for denial of the plat.

A land study may be submitted for review and may be approved without the proper zoning in place, but any such approval is only conditional and shall be subject to acquisition of the proper zoning within one (1) year of the land study approval date. If the proper zoning is not acquired by that time, the approved land study shall expire and shall become null and void.

b. Classification of Subdivisions and Additions. Before any land is platted (i.e., filed for record), the property owner shall apply for and secure approval of the proposed subdivision plat, in accordance with the following procedures, unless otherwise provided within this Ordinance. Subdivisions are classified as major or minor (see definitions), depending upon the number of lots to be created and upon whether or not any public improvements will be required to develop the property.

1. Minor subdivisions shall create no more than four (4) lots, and every lot within a minor subdivision shall already be served by all required City utilities and services pursuant to this and other applicable City ordinances. If the development of any lot within the proposed subdivision will require the construction of a new street (or portion thereof) or a public improvement (e.g., water or sewer line, drainage facility, required screening wall, etc.), or if an easement(s) or right-of-way dedication(s) for any public facility(s) or roadway must be established on the plat, then the subdivision (and its corresponding plat) shall be classified as a major subdivision (and plat) and shall be processed/approved as such. Minor subdivisions may be approved for residential or non-residential properties. Minor plat approval requires the submission of a final plat drawing and other submission materials (see Section 2.11) similar to a final plat, except that the Planning and Zoning Commission shall have the authority of final approval of minor plats. A minor plat that is denied by the Commission may be appealed to City Council using the procedures set forth in Section 2.4f. Lots may be conveyed (i.e., sold) only when the final plat has been approved and the plat has been filed at Kaufman County.

2. Major subdivisions involve the creation of new streets, the construction/extension of a municipal facility(s), the establishment of an easement(s) or right(s)-of-way for any
public facility or roadway, and/or the creation of more than four (4) lots. Major subdivisions may be approved for residential or non-residential properties. The procedure for approval of a major plat typically requires three steps: land study (or concept plan for nonresidential property), preliminary plat and final plat (see Sections 2.3 through 2.6 for applicability and requirements for each). A concept plan or preliminary site plan (see Zoning Ordinance) that includes sufficient information to provide for the proper coordination of the development may serve as a land study for non-residential property if authorized by the City Manager. Major plat approval shall be in accordance with Sections 2.4 through 2.6. Upon completion of the required public improvements (or upon submission and City approval of the appropriate surety for public improvements), the final plat may be filed for record at the County. All major subdivision plats must be considered by the Planning and Zoning Commission and approved by City Council, pursuant to Sections 2.4 through 2.8. Lots may be sold only when the final plat has been approved by the City, all public improvements have been constructed (or appropriate surety has been provided), and the plat has been filed at Kaufman County (i.e., if the land is required to be platted, no conveyance/sale of any portion/lot of the property may occur until after the final plat is approved by the City and filed at the County).

c. Submission Requirements. In addition to the requirements outlined herein for each type of development application, the City shall maintain separate policies and procedures for the submission and processing of applications including, but not limited to, application forms, checklists, language blocks for plats, and other similar items (forms and paperwork are available at the office of the City Manager, or his/her designee). These policies and procedures may be amended from time to time, and it is the applicant’s responsibility to be familiar with, and to comply with, said policies and procedures.

d. Official Filing/Application Submission Date. For the purpose of these regulations, the date upon which a complete application for approval of a land study or any type of plat, that contains all required elements mandated by the Texas Local Government Code, Section 212.004(b) and by this Ordinance, is first filed with the City Manager (or designee) shall constitute the official submission date for the plat, after which the statutory period required for approval or disapproval of the plat shall commence to run. No application shall be deemed filed until the City Manager (or designee) determines that the application is complete and a fee receipt is issued by the City. Failure by the City Manager (or designee) to make a determination of completeness within ten (10) working days of the submission date shall result in the application being deemed complete.

e. Action by Planning and Zoning Commission or City Council. The Planning and Zoning Commission shall recommend approval or disapproval of a land study or any type of plat application, or shall identify requirements/conditions which must be satisfied prior to approval of such application, within thirty (30) days of the official submission date. For purposes of this Section, identification of requirements/conditions which must be satisfied prior to approval of the application shall be considered denial of the plat application until said requirements/conditions are satisfied. The Planning and Zoning Commission shall take action (i.e., review and consider the request at a public meeting) on the plat application within thirty (30) days of the official submission date. All plats for a major subdivision shall be considered by the Planning and Zoning Commission and approved by the City Council of Forney.

f. Simultaneous Submission of Plats. In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in Section 2.4 (c), the City Manager (or designee) shall schedule both plat applications for consideration by the Planning and Zoning Commission within thirty (30) days of the official submission date, unless the applicant has executed a waiver of the 30-day review period (in writing) for one or both plats. If the preliminary plat has not received approval prior to consideration
of the final plat by the Commission, then the Commission shall deny the final plat application.

g. **Proof of Land Ownership.** In the public interest, the City requires proof of land ownership prior to approval of any development application involving real property. Along with the application submission, the applicant shall provide written verification (e.g., a notarized statement, power of attorney, etc.) that he/she is the owner of record of the subject land parcel (or the owner’s authorized agent). The City Manager (or his/her designee) shall have the authority to determine what document(s) the City will require to prove ownership, such as one of the following:

1. General warranty deed;
2. Special warranty deed;
3. Title policy; or
4. Some other documentation that is acceptable to the City Manager (or his/her designee).

If ownership cannot be conclusively established prior to the meeting date on which the development application will be heard, and if the City has concerns regarding the welfare of future owners of all or any portion of the subject property, then the City shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new development application (along with applicable paperwork and filing fees) on the property at any time following such denial (i.e., no waiting period).

### Section 2.3: Procedures and Submission Requirements for Land Study Approval

2.3 a. **Applicability.** A land study (or a concept plan/preliminary site plan, per the Zoning Ordinance) shall be submitted to the Planning and Zoning Commission and the City Council for review, evaluation and approval in the following circumstances:

1. In conjunction with an application for preliminary plat approval for any tract of land over fifty (50) acres in size, or for a smaller tract, where the land is part of a larger parcel over fifty (50) acres in size, which is ultimately to be developed under the City’s Subdivision Ordinance;
2. In conjunction with a development plat; or
3. In any case where a road is to be established or realigned.

b. **Purpose.** The purpose of the land study is to allow the Planning and Zoning Commission and City Council to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the Comprehensive Plan, Zoning Ordinance, Future Land Use Plan, Thoroughfare Plan and other applicable plans, and the property’s relationship to adjoining subdivisions or properties (also see Section 3.1[e]), and to assist in evaluating the impacts of developing the land to be platted on provision of supporting public facilities and services, the environment, provision of open space and recreational opportunities and the general health, safety and welfare of the community.

c. **Extent of Area Required for Land Study.** When the preliminary plat or development plat designates the land to be developed in phases, the land study area (or for nonresidential property, the area covered by a concept plan/preliminary site plan, per the Zoning Ordinance) shall include the entire property from which the phases are being subdivided and an approximate development schedule. Where the applicant can demonstrate that natural or manmade features, such as thoroughfares and/or creeks, make inclusion in the land study of the entire property unnecessary to adequately review the items listed in the preceding paragraph, he may request approval from the City Manager (or designee) for a smaller land study area. Boundaries such as thoroughfares (existing or proposed),
creeks, political subdivisions, or other such natural or manmade features may be used to delineate the smaller study area.

d. Submission of an application for land study approval shall be preceded by a pre-application conference with the City (see Section 2.1). The land study shall be prepared by a qualified civil engineer, land planner, architect or surveyor, at a scale no smaller than one inch equals two hundred feet (1" = 200’) and on sheets no larger than 24” x 36” in size, and it shall show the following:

1. A title block within the lower right hand corner of the land study with the proposed name of the addition, the name and address of the owner/developer and the land planner, engineer architect or surveyor responsible for the design or survey, the scale of the drawing, the date the drawing was prepared, and the location of the tract according to the abstract and survey records of Kaufman County, Texas;
2. A vicinity or location map that shows the location of the proposed development within the City (or its ETJ) and in relationship to existing roadways;
3. The limits of the tract and scale distances with north clearly indicated;
4. The names of adjacent additions or subdivisions (or the name of the owners of record and recording information for adjacent parcels of unplatted land), including parcels on the other sides of roads, creeks, etc. The land study shall include a depiction of all contiguous holdings of the property owners, the existing/proposed uses of the subject property, a general arrangement of future land uses, including the approximate number of lots and any non-residential uses anticipated, and a generalized circulation plan for the subject property;
5. The existing zoning and existing/proposed uses on adjacent land (including existing/proposed driveways and median openings, if on a future divided thoroughfare); the location, width and names of all existing or platted streets or other public ways within or adjacent to the tract; any existing easements (with recording information); existing buildings; railroad rights-of-way; topography with existing drainage channels or creeks; any other important natural features; all substantial natural vegetation; and adjacent political subdivisions, corporate limits, and/or school district boundaries;
6. The layout and width of proposed thoroughfares, collector streets and/or intersections, and a general configuration of proposed streets;
7. A general arrangement of land uses, including but not limited to park and school sites, public facilities, private open space, flood plains/drainageways, and proposed non-residential and residential densities and building heights; and
8. The phasing of development or the anticipated order of platting.

e. Certificate of No Tax Delinquency. At the time the developer files a land study application with the City Manager (or designee); he shall also file a certificate showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property in accordance with Section 1.13.

f. Procedures and Conditions. The required number of copies of the proposed land study shall be submitted no later than twenty-one (21) calendar days before the Planning and Zoning Commission meeting at which it shall be considered, accompanied by an application form, the appropriate filing fee (per the City’s submission guidelines, as may be amended from time to time), and any other required submission materials determined necessary by the City Manager (or designee).

The Planning and Zoning Commission and the City Council shall review and evaluate the land study to determine whether the proposed development conforms to the Comprehensive Plan and applicable development regulations of the City. The City Council or the Planning and Zoning Commission may require additional information to be submitted to supplement the initial study. Based upon the land study, the Planning and
Zoning Commission may recommend, and the City Council may require as a condition of preliminary plat or development plat approval, that the land to be platted be developed in phases, that the proposed phases be developed in a different sequence or include more or less land, or that all phases designated be accompanied by a schedule of public improvements to adequately serve the development under the development standards of the City's Subdivision Ordinance.

A land study may be submitted for review concurrently with a preliminary plat, provided that the respective requirements for both types of applications are satisfied (per Sections 2.3 and 2.4). If the preliminary plat cannot be reviewed by the City Manager (or designee) in time for it to be scheduled on the same Planning and Zoning Commission agenda as the land study (i.e., due to lack of familiarity with the proposed subdivision, since the land study did not precede the preliminary plat), then the preliminary plat shall be denied (on the basis of inadequate review time) unless the applicant has executed a waiver of the 30-day review period (in writing) for the preliminary plat.

g. Effect of Review. The land study shall be used only as an aid to show the anticipated layout of the proposed development, and to assess the adequacy of public facilities/services that will be needed to serve the proposed development. Any proposed use or development depicted on the land study shall not be deemed formal authorization or approval by the City until a preliminary plat or development plat is approved for the development (i.e., land study approval is to be thought of as a general acknowledgment by the City that the proposed layout generally conforms to the City's subdivision regulations, and that the proposed development can be adequately served by required public facilities/services). If the applicant chooses to plat only the initial phase or phases of a multi-phase project designated in the land study, a new land study may be required for plat approval of subsequent phases, if the proposed development layout/character and/or other conditions affecting the development substantially change from one phase to the next.

The approved land study shall be valid for a period of one (1) year from the date of land study approval by City Council. Prior to the lapse of approval for a land study, the property owner may petition the City to extend the land study approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission and then City Council and an extension may be granted by City Council at such meeting. If no petition for extension of land study approval is submitted by the property owner/developer prior to the expiration date, the land study shall be deemed to have expired and shall become null and void.

In determining whether to grant a request for extension, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations shall apply to the land study. The Commission may recommend, and the City Council may approve, extension of the land study or deny the request, in which instance the original land study shall be deemed to be null and void. The property owner must thereafter submit a new land study application for approval, and shall conform to the subdivision regulations then in effect.

The Commission may recommend, and the City Council may grant, extension of the land study subject to additional conditions based upon newly enacted City regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval. The Commission may recommend, and the City Council may decide, to specify a shorter time for extension of the land study than the original one-year approval period.

Section 2.4: Procedures and Submission Requirements for Preliminary Plat Approval

2.4 a. Upon reaching conclusions at the pre-application conference (as described in Section 2.1 above) regarding a general development program and objectives and upon approval of the land study (if required), the subdivider shall have prepared a preliminary plat
together with general (i.e., preliminary) utility plans and other supplementary materials, as specified by the City. The preliminary plat shall be submitted to the City of Forney with the appropriate filing fee and with a written application form at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant waives the 30-day review time in writing) prior to the Planning and Zoning Commission meeting at which it is to be considered.

At the time the developer files a preliminary plat application with the City Manager (or designee), he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.13.

The preliminary plat shall be in accordance with the City’s Zoning Ordinance (including the proper zoning for the intended use) if located within the City’s corporate limits, and it shall be in accordance with the City’s Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The preliminary plat shall be prepared by a registered/certified civil engineer, land planner or surveyor.

The preliminary plat may constitute only that portion of the approved land study which the subdivider proposes to construct and record provided, however, that such portion conforms to all the requirements of these regulations.

b. Copies/prints of the preliminary plat for the proposed subdivision, drawn on sheets eighteen inches by twenty-two inches (18" x 22") and drawn to a known engineering scale of not smaller than one hundred feet to the inch (1"=100') or a larger scale, shall be submitted in the quantity as specified by the City (as provided in the City’s plat submission guidelines, as may be amended from time to time). In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100') scale, preliminary plats may be on multiple sheets or to another known engineering scale, as approved by the City Manager (or designee), and as acceptable for eventual filing at Kaufman County.

Preliminary plat applications which do not include the required data, a completed application form, the appropriate filing fee, the appropriate number of copies of the plat, and/or other required information will be considered incomplete, shall not be accepted for submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff. Additional copies of the preliminary plat may be required if revisions or corrections are necessary. A preliminary plat, if not preceded by a land study showing phasing of the development, shall include all contiguous property under the ownership or control of the applicant. It may contain more than one phase which, if so, shall be clearly identified.

c. The subdivider may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the City may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats (including full construction plans and the appropriate assurances for the completion of all improvements, as per Section 6), and provided that adequate review can be achieved by the City. If the City, due to staff resources and/or other factors, cannot complete its review of both plats (and other associated materials) prior to the applicable Planning and Zoning Commission meeting, then only the preliminary plat shall be considered for approval and the final plat shall be denied unless the thirty (30) day review requirement is waived in writing by the applicant.

d. Following review of the preliminary plat and other materials submitted in conformity to these regulations, and following discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be installed, the Planning and Zoning Commission shall act upon the preliminary plat as it was submitted, or as modified. If the Commission recommends approval, the Commission shall state the conditions of such approval, if any, and the preliminary plat shall be placed on the next
possible City Council agenda for consideration. The City Council shall take action on the preliminary plat within thirty (30) days of the Planning and Zoning Commission’s action. After the preliminary plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the thirty (30) day approval requirement in order to allow him more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City’s regulations. After receipt of the request, the City may delay action on the preliminary plat beyond thirty (30) days of the submission date.

e. Approval of a preliminary plat by City Council, upon favorable recommendation by the Planning and Zoning Commission, shall be deemed approval of the street and lot layout shown on the preliminary plat, and to the preparation of the final or record plat (and associated engineering/construction plans for public improvements). Except as provided for herein, approval of the preliminary plat shall constitute conditional approval of the final plat when all conditions of approval and as provided in this Section have been met.

f. If the Planning and Zoning Commission votes to disapprove a preliminary plat application, the Commission shall state such disapproval and the reasons therefore. The applicant or property owner may appeal such decision to City Council by filing a Notice of Appeal in the office of the City Manager (or designee) no later than ten (10) days after the date upon which the Commission denied the application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than thirty (30) days after the date upon which the Notice of Appeal was filed. The City Council may affirm, modify or reverse the decision of the Commission, or it may, where appropriate, remand the preliminary plat back to the Commission for further proceedings consistent with the City Council’s decision. Affirmation or modification of the Commission’s recommendation shall require a simple majority vote of the City Council members present. The City Council may reverse the Commission’s decision to deny a plat (upon appeal by the applicant/property owner) upon a three-quarters vote of the full City Council (i.e., three-quarters of all Council members).

g. Standards for Approval. No preliminary plat shall be recommended for approval by the Planning and Zoning Commission, or approved by the City Council, unless the following standards have been met:

1. The plat substantially conforms with the approved land study or other studies and plans, as applicable;

2. The preliminary layouts of required public improvements and City utilities have been approved by the City Engineer; and

3. The plat conforms to applicable zoning and other regulations.

h. No construction work shall begin on the proposed improvements in the proposed subdivision prior to approval of the final plat by City Council, upon a favorable recommendation by the Planning and Zoning Commission. The applicant shall also provide copies of letters from applicable local utility companies stating that each utility company has reviewed the preliminary plat and stating any requirements (including easements) they may have. This requirement may be deferred until the final plat is submitted if such deferral request is submitted to the City in writing and approved by the City Manager (or his/her designee) prior to the Planning and Zoning Commission meeting at which the preliminary plat will be considered. No excavation, grading or site clearing activities shall occur prior to approval of the final plat and the construction (i.e., engineering) plans. However, limited/preliminary grading or site preparation activities (e.g., excavation, filling, tree removal/clearing, etc.) may be authorized by the City Manager (or designee), at his discretion, if such request is submitted in writing by the property owner/developer and if such activities will not be detrimental to the public health, safety or general welfare.

i. The required copies/prints (as determined by the City) of the proposed preliminary plat and associated construction (i.e., engineering) plans shall show the following (the
preliminary plat itself shall only include those items marked by italics -- general physical/engineering data shall be shown on the preliminary grading and utility plans submitted along with the preliminary plat; other detailed engineering data shall be included in the construction plans when they are submitted with the final plat):

1. A vicinity/location map that shows the location of the proposed preliminary plat within the City (or within its ETJ) and in relationship to existing roadways;

2. Boundary lines, abstract/survey lines, corporate or other jurisdictional boundaries, existing or proposed highways and streets (including right-of-way widths), bearings and distances sufficient to locate the exact area proposed for the subdivision, and all survey monuments (identified and labeled; see Section 5.2 for specifications); the length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves shall be indicated along the lines of each lot (curve and/or line data may be placed in a table format); accurate reference ties via courses and distances to at least one recognized abstract/survey corner or existing subdivision corner shall be shown;

3. The name, location and recording information of all adjacent subdivisions (or property owners of adjacent unplatted property), including those located on the other sides of roads or creeks, shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys, building setbacks, lot/block numbering, easements, and other features that may influence the layout of development of the proposed subdivision; adjacent unplatted land shall show property lines, the names of owners of record, and the recording information;

4. The location, widths and names of all streets, alleys and easements (it shall be the applicant's responsibility to coordinate with appropriate utility entities for placement of necessary utility easements), existing or proposed, within the subdivision limits and adjacent to the subdivision; a list of proposed street names shall be submitted (in the form of a letter/memo along with the application form) for all new street names (street name approval is required at the time the preliminary plat is approved);

5. The location of all existing property lines, existing lot and block numbers and date recorded, easements of record (with recording information), buildings, existing sewer or water mains, gas mains or other underground structures, or other existing features within the area proposed for subdivision;

6. Proposed arrangement and square footage of lots (including lot and block numbers) and proposed use of same; for nonresidential uses, the location and size of buildings (this information may be provided on a separate sheet, such as the concept plan or preliminary site plan, per the Zoning Ordinance);

7. A title block within the lower right hand corner of the plat (and preliminary grading and utility plans) which shows the title/name under which the proposed subdivision is to be recorded, the name and address of the owner/developer and the name of the land planner, engineer or registered public surveyor who prepared the plat/plans, the scale of the plat, the date the plat was prepared, and the location of the property according to the abstract/survey records of Kaufman County, Texas; the subdivision name shall not duplicate (or phonetically replicate) the name of any other platted subdivision in Forney or its ETJ, but phasing identification is allowed (it is the owner’s/developer’s responsibility to check the plat records of Kaufman County to ensure that the proposed subdivision name will not duplicate or sound too much like a subdivision name already in existence -- the City may, at its discretion, require a different subdivision name if there is potential for confusion by public safety officials or the general public);
8. Sites, if any, to be reserved or dedicated for parks, schools, playgrounds, other public uses;

9. Scale, date, north arrow oriented to the top or left side of the sheet, and other pertinent informational data;

10. Contours with intervals of two feet (2') or less shown for the area, with all elevations on the contour map referenced to sea level datum;

11. Areas contributing drainage to the proposed subdivision shall be shown in the preliminary drainage plan; locations proposed for drainage discharge from the site shall be shown by directional arrows;

12. All physical features of the property to be subdivided shall be shown in the preliminary utility/drainage plans, including the location and size of all water courses, 100-year flood plain according to Federal Emergency Management Agency (FEMA) information, Corps of Engineers flowage easement requirements, ravines, bridges, culverts, existing structures, drainage area in acres or area draining into subdivisions, the outline of major wooded areas or the location of major or important individual trees, and other features pertinent to subdivision;

13. (reserved)

14. Proposed phasing of the development; where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development; the dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision; the City Council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or for such phases as the Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares;

15. All preliminary plats shall be submitted in a legible format that complies with Kaufman County requirements for the filing of plats, and shall be drawn on a good grade blue line or black line paper;

16. Proposed or existing zoning of the subject property and all adjacent properties;

17. Minimum finished floor elevations of building foundations shall be shown for lots adjacent to a flood plain or within an area that may be susceptible to flooding;

18. Certificates and other language shall be included on the plat, pursuant to the following sections:

   (a) A statement that the subdivided area is legally owned by the applicant.

   (b) An accurate legal (i.e., metes and bounds) description by bearings and distances (including necessary curve and line data), accurate to the nearest one hundredth of a foot, for all boundary, block and lot lines, with descriptions correlated to a permanent survey monument.

   (c) A statement signed by the owner and acknowledged before a Notary Public as to the authenticity of the signatures, saying that the owner adopts the plat as shown, described and named, and that they do dedicate, in fee simple, to the public use forever the streets, alleys and easements shown on the plat. The owner further reserves any easement areas shown for mutual use of all public utilities desiring to use the same. Any public utility shall have the right to remove and keep removed all or any part of any vegetative growth or other appurtenance for construction or maintenance, or efficiency of its respective system in these easements and all or any part of, any growth or construction
which in any way hinders or interferes with the right of ingress and egress to these easements for any necessary use without asking anyone's permission.

(d) The registered public surveyor's certificate, with a place for his signature and notarization of his signature.

(e) A place for plat approval signature of the Mayor or Mayor Pro Tem of the City Council, a place for the City Secretary to attest such signature, and the approval dates by the Planning and Zoning Commission and City Council.

(f) Following are the certificates/languages to be used on the plat to accommodate the above requirements:

1. **Owner’s Certificate (required):**

   STATE OF TEXAS §
   COUNTY OF __________ §

   WHEREAS, [Name(s)] is (are) the Owner(s) of a tract of land situated in the [Survey] Survey, Abstract No. [ ], Kaufman County, Texas and being out of a [ ] acre tract conveyed to him (them) by [ ], and a [ ] acre tract conveyed to him (them) by [ ], and being more particularly described as follows:

   (Enter accurate metes and bounds property description here)

   NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

   That ________________________, acting herein by and through his(its) duly authorized officers, does hereby adopt this plat designating the herein above described property as ____________________________, an addition to the City of Forney, Texas, and does hereby dedicate, in fee simple, to the public use forever, the streets, alleys and easements shown thereon. The streets and alleys are dedicated for street purposes.

   The easements and public use areas, as shown, are dedicated, for the public use forever, for the purposes indicated on this plat. No buildings, fences, trees, shrubs or other improvements or growths shall be constructed or placed upon, over or across the easements as shown, except that landscape improvements may be placed in landscape easements, if approved by the City of Forney. In addition, utility easements may also be used for the mutual use and accommodation of all public utilities desiring to use or using the same unless the easement limits the use to particular utilities, said use by public utilities being subordinate to the public's and City of Forney's use thereof. The City of Forney and public utility entities shall have the right to remove and keep removed all or parts of any buildings, fences, trees, shrubs or other improvements or growths which may in any way endanger or interfere with the construction, maintenance, or efficiency of their respective systems in said easements. The City of Forney and public utility entities shall at all times have the full right of ingress and egress to or from their respective easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining, reading meters, and adding to or removing all or parts of their respective systems without the necessity at any time procuring permission from anyone.

   This plat approved subject to all platting ordinances, rules, regulations and resolutions of the City of Forney, Texas

   WITNESS, my hand, this the ___ day of ______________, 20____.

   BY:
Authorized Signature of Owner

Printed Name and Title

STATE OF TEXAS $ §
COUNTY OF __________ $ §

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared ________________, Owner, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

Given under my hand and seal of office, this ___ day of _____________, 20___.

___________________________________
Notary Public in and for the State of Texas

___________________________________
My Commission Expires On:

(2) Surveyor's Certificate (required):

KNOW ALL MEN BY THESE PRESENTS:

That I, ______________________, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon as set were properly placed under my personal supervision in accordance with the Subdivision Ordinance of the City of Forney.

_____________________________________
(seal) Signature of Registered Public Land Surveyor

Registration No. __________

STATE OF TEXAS $ §
COUNTY OF __________ $ §

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared ________________, Land Surveyor, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and considerations therein expressed.

Given under my hand and seal of office, this ___ day of _____________, 20___.

___________________________________
Notary Public in and for the State of Texas

___________________________________
My Commission Expires On:
(3) Approval Block (required):

PRELIMINARY PLAT

Approved for preparation of final plat for the subdivision shown on this plat.

APPROVED BY: Planning and Zoning Commission
City of Forney, Texas

______________________________ ___________________
Signature of Chairman Date

APPROVED BY: City Council
City of Forney, Texas

______________________________ ___________________
Signature of Mayor Date

ATTEST:

______________________________ ___________________
City Secretary Date

(4) Special Notice (required):

NOTICE: Selling a portion of this addition by metes and bounds is a violation of City ordinance and State law, and is subject to fines and/or withholding of utilities and building permits.

(5) Visibility, Access and Maintenance Easements (to be used if applicable):

The area or areas shown on the plat as "VAM" (Visibility, Access and Maintenance) Easement(s) are hereby given and granted to the City, its successors and assigns, as an easement to provide visibility, right of access for maintenance upon and across said VAM Easement. The City shall have the right but not the obligation to maintain any and all landscaping within the VAM Easement. Should the City exercise this maintenance right, then it shall be permitted to remove and dispose of any and all landscaping improvements, including without limitation, any trees, shrubs, flowers, ground cover and fixtures. The City may withdraw maintenance of the VAM Easement at any time. The ultimate maintenance responsibility for the VAM Easement shall rest with the owners. No building, fence, shrub, tree or other improvements or growths, which in any way may endanger or interfere with the visibility, shall be constructed in, on, over or across the VAM Easement. The City shall also have the right but not the obligation to add any landscape improvements to the VAM Easement, to erect any traffic control devices or signs on the VAM Easement and to remove any obstruction thereon. The City, its successors, assigns, or agents shall have the right and privilege at all times to enter upon the VAM Easement or any part thereof for the purposes and with all rights and privileges set forth herein.

(6) Fire Lanes (to be used if applicable):

That the undersigned does hereby covenant and agree that he (they) shall construct upon the fire lane easements, as dedicated and shown hereon, a hard surface in accordance with the City of Forney’s paving standards for fire lanes, and that he (they) shall maintain the same in a state of good repair at all times and keep the same free and clear of any structures, fences, trees, shrubs, or other improvements or obstruction,
including but not limited to the parking of motor vehicles, trailers, boats or other impediments to the accessibility of fire apparatus. The maintenance of paving on the fire lane easements is the responsibility of the owner, and the owner shall post and maintain appropriate signs in conspicuous places along such fire lanes, stating "Fire Lane, No Parking." The local law enforcement agency(s) is hereby authorized to enforce parking regulations within the fire lanes, and to cause such fire lanes and utility easements to be maintained free and unobstructed at all times for fire department and emergency use.

(7) **Access Easements (to be used if applicable):**

The undersigned does covenant and agree that the access easement may be utilized by any person or the general public for ingress and egress to other real property, and for the purpose of general public vehicular and pedestrian use and access, and for fire department and emergency use in, along, upon and across said premises, with the right and privilege at all times of the City of Forney, its agents, employees, workmen and representatives having ingress, egress, and regress in, along, upon and across said premises.

(8) **Other Plat Language.** The plat shall include any other applicable language (e.g., for drainage/floodway or other special types of easements, etc.) deemed appropriate and necessary by the City for the purpose of protecting the public health, safety and welfare. Applicable plat languages are available upon request at the City.

k. **Effect of Approval.** Approval of a preliminary plat authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval (see Section 2.5).

l. **Extension and Reinstatement Procedure.**

1. Approval of a preliminary plat shall be valid for a period of one (1) year from the date of City Council approval unless reviewed by the Planning and Zoning Commission and extended by City Council (see next subsection) in the light of new or significant information which would necessitate the revision of the preliminary plat. Within one (1) year from the approval date of a preliminary plat, a final plat (and associated engineering/construction plans) must be approved by the City for construction of the development or the preliminary plat shall expire and become null and void.

2. Prior to the lapse of approval for a preliminary plat, the property owner may petition the City to extend the preliminary plat approval. Such petition shall be considered at a public meeting before the Planning and Zoning Commission and then City Council and an extension may be granted by City Council at such meeting. If no petition for extension of preliminary plat approval is submitted by the property owner/developer (and no final plat has been approved by the City) prior to the expiration date, the preliminary plat shall be deemed to have expired and shall become null and void.

In determining whether to grant a request for extension, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, and the extent to which newly adopted subdivision regulations would apply to the preliminary plat. The Commission may recommend, and City Council may grant, extension of the preliminary plat or denial of the request, in which instance the original preliminary plat shall be deemed to be null and void. The property owner must thereafter submit a new preliminary plat application for approval, and shall conform to the subdivision regulations then in effect.

The Commission may recommend, and City Council may grant, extension of the preliminary plat subject to additional conditions based upon newly enacted City
regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Commission may recommend, and City Council may specify, a shorter time for extension of the preliminary plat than the original one-year approval period.

Section 2.5: Procedures and Submission Requirements for Final Plat Approval

2.5 a. The final plat shall be in accordance with the preliminary plat, as approved, and shall reflect/incorporate all applicable conditions, changes, directions and additions imposed by the Planning and Zoning Commission and City Council upon the preliminary plat. The final plat shall not be approved by the City until detailed engineering and construction plans for all required public improvements have been prepared by the applicant and submitted to the City for reviewed/approval by the City Engineer. The final plat shall not be submitted prior to approval of the preliminary plat (see Section 2.4 [c] for exception). At the time the developer files a final plat application with the City Manager (or designee), he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.13.

b. The final plat shall be in accordance with the City’s Zoning Ordinance (including the proper zoning for the intended use) if located within the City’s corporate limits, and it shall be in accordance with the City’s Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The final plat shall be prepared by a registered/certified civil engineer, land planner or surveyor, and shall include all land area that is proposed for immediate development.

c. The required number of copies of the proposed final plat (and associated engineering/construction plans) shall be submitted at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant waives the 30-day review time in writing) before the Planning and Zoning Commission meeting at which it shall be considered, accompanied by an application form and a filing fee (per the City’s plat submission guidelines, as may be amended from time to time). The City Manager (or designee) shall check the plat to ascertain its compliance with these regulations and shall report any points of noncompliance to the applicant. If revisions are necessary, the applicant/developer or his engineer shall submit additional corrected copies of the properly completed final plat to the City Manager (or designee) for final action no later than seven (7) days prior to the Commission meeting. Failure to submit corrected copies back to the City in time shall be reason to determine the submittal as incomplete and as reason to not schedule the final plat on the Commission’s agenda or to deny the final plat application. If, upon re-submission of the final plat application to the City, the City Manager (or designee) determines that the application is still incomplete (i.e., not ripe for consideration), the application will be subject to denial.

The Planning and Zoning Commission shall recommend approval, approval subject to certain conditions, or denial of the final plat within thirty (30) days of the official submission date. The City Council shall take action on the final plat within thirty (30) days of the Planning and Zoning Commission’s action. After the final plat has been scheduled on an agenda, the applicant or subdivider may request, in writing, a waiver of the thirty (30) day approval requirement in order to allow him more time to correct deficiencies, address concerns, or otherwise improve the plat pursuant to the City’s regulations. After receipt of the request, the City may delay action on the final plat beyond thirty (30) days of the submission date.

If the Planning and Zoning Commission denies a final plat application, the Commission shall state such disapproval and the reasons therefore. The applicant or property owner may appeal such decision to City Council by filing a Notice of Appeal in the office of the City Manager (or designee) no later than ten (10) days after the date upon which the Commission denied the application. The Notice of Appeal shall set forth in clear and
concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than thirty (30) days after the date upon which the Notice of Appeal was filed. The City Council may affirm, modify or reverse the decision of the Commission, or it may, where appropriate, remand the final plat back to the Commission for further proceedings consistent with the City Council’s decision. Affirmation or modification of the Commission’s recommendation shall require a simple majority vote of the City Council members present. The City Council may reverse the Commission’s decision to deny a plat (upon appeal by the applicant/property owner) upon a three-quarters vote of the full City Council (i.e., three-quarters of all Council members).

Upon final plat approval and following construction of all required public improvements (or provision of appropriate surety, if applicable), the developer/applicant shall return copies of the final plat, as approved, with any other required documents and necessary fees attached thereto to the City Manager (or designee), in accordance with requirements established by the City. All easements shall be included on the plat (including recording information for those easements that are filed as separate instruments) as required by utility companies and/or the City of Forney prior to filing, and a copy of letters from each applicable utility company shall be submitted to the City Manager (or designee) stating that the plat contains the proper easements. All necessary filing materials, including mylars, reductions and/or blue line copies, as required by the County Clerk of Kaufman County, in addition to mylar copies and a computer disk containing the digital plat file(s) required by the City, shall be returned to the City Manager (or his/her designee) with the required fees. The City Manager (or his/her designee) shall file the final plat within thirty (30) working days at the office of the County Clerk of Kaufman County provided all requirements have been satisfied.

d. The final plat (and any replat or other recordable plat) shall be prepared by a registered public surveyor or licensed land surveyor.

e. Standards for Approval. No final plat shall be recommended for approval by the Planning and Zoning Commission or approved by City Council unless the following standards have been met:

1. The plat substantially conforms with the approved preliminary plat and other studies and plans, as applicable;

2. The complete engineering/construction plans for all required public improvements and City utilities have been submitted to the City for review/approval by the City’s Engineer (whether specifically stated or not, final plat approval shall always be subject to any additions and/or alterations to the engineering/construction plans as deemed necessary by the City Engineer, as needed, to ensure the safe, efficient and proper construction of public improvements within the subdivision); and

3. The plat conforms to applicable zoning and other regulations.

f. When all of the improvements are found to be constructed/installed (i.e., completed) in accordance with the approved plans and specifications and with the City’s standards, and upon receipt by the City of Forney of a maintenance bond or certificate of deposit in accordance with Section 6 of this Ordinance from each contractor, three (3) sets of "AS BUILT" (or "Record Drawing") plans and one (1) set of "As-Built" or "Record Drawing" sepias shall be submitted with a letter stating the contractor’s compliance with these regulations. After such letter is received, the City Manager (or designee) shall receive and accept for the City of Forney the title, use and maintenance of the improvements according to Section 6.7. The final plat shall not be filed for record prior to receipt of the above letter and other items, nor prior to acceptance of the improvements by the City.

g. Timing of Public Improvements.

1. The Commission and City Council may require all or some of the public improvements to be installed, offered for dedication, and/or accepted by the City prior to approval of the final plat by the City if there exists a compelling reason that
is consistent with the public health, safety and/or welfare to do so (also see Section 6).

The City Council may permit or require the deferral of the construction of public improvements if, in its judgment, deferring the construction would not result in any harm to the public or would offer significant advantage in coordinating the site’s development with adjacent properties and off-site public improvements. The deferred construction of any required public improvement(s) must be approved by the City at the time of final plat approval, and the necessary assurances for completion of the improvements (in accordance with Section 6) shall be a stipulation (i.e., condition) of approval of the final plat.

2. If the City Council does not require that all public improvements be installed, offered for dedication and/or accepted by the City prior to signing the final plat (in preparation for recording), it shall require that the applicant provide assurances/security for the completion of the improvements or escrowed funds, as provided in Section 6.

Section 2.6: Final Plats (Information and Format Requirements)

2.6 a. Copies/prints of the final plat for the proposed subdivision, drawn on sheets eighteen inches by twenty-two inches (18” x 22”) and drawn to a known engineering scale of not smaller than one hundred feet to the inch (1”=100’) or a larger scale, shall be submitted in the quantity as specified by the City (as provided in the City’s plat submission guidelines, as may be amended from time to time). In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100’) scale, final plats may be on multiple sheets or to another known engineering scale, as approved by the City Manager (or designee), and as acceptable for filing at Kaufman County.

Complete engineering/construction plans of all public improvements to be constructed with the development (including streets, water and sewer lines, drainage structures, screening or retaining walls, required landscaping, etc.) shall be submitted along with the final plat application. Failure to submit complete construction plans shall cause the final plat application to be incomplete.

Final plat applications which do not include the required data, completed application form, filing fee, number of copies of the plat, and/or other required information (including complete engineering/construction plans for public improvements) will be considered incomplete, shall not be accepted for submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff. Additional copies of the final plat may be required if revisions or corrections are necessary.

b. All information that is required for inclusion on a preliminary plat (see Section 2.4(i)) shall be shown on the final plat (however, physical features such as topographical contours, structures, etc. shall not be shown on the final plat). In addition to these items, the final plat shall also provide a place for the County Clerk of Kaufman County to stamp the date and location where the plat will be filed (i.e., “Plat #______, Plat Cabinet #_____, etc.) in the lower left-hand corner of the plat drawing. All aspects of the final plat shall conform to the standards of Kaufman County for plats (e.g., clarity, sheet size, paper type, lettering size, reproducibility, etc.). It is the applicant’s/developer’s responsibility to be familiar with the County’s standards for filing plats and to comply with same.
c. Approval Block. The approval block used on the previously approved preliminary plat shall be modified and shown on the final plat, as follows:

FINAL PLAT
Approved by the City of Forney for filing at the office of the County Clerk of Kaufman County, Texas.
APPROVED BY: Planning and Zoning Commission
City of Forney, Texas

Signature of Chairman ____________________ Date ________________

APPROVED BY: City Council
City of Forney, Texas

Signature of Mayor ____________________ Date ________________

ATTEST:
City Secretary ____________________ Date ________________

d. Engineering/Construction Plans. Along with the final plat application, the developer shall cause to be prepared and shall submit the required copies of the complete engineering/construction plans for streets, alleys, storm sewers/drainage structures, water and sanitary sewer facilities, screening and/or retaining walls, landscaping/irrigation, and any other required public improvements for the area covered by the final plat. Cost estimates shall also be submitted with the construction plans. Prior to construction of any public improvements, a set of construction plans marked "Approved" (by the City Engineer) must be on file at the City. A full set of the City-approved engineering/construction plans must also be available for inspection on the job site at all times.

The developer shall have these plans prepared by their own professional engineer(s), subject to approval of the plans by the City of Forney. The City Manager (or his/her designee) shall review, or cause to be reviewed, the plans and specifications and if approved, shall mark them “Approved” and shall return one set to the developer. If not approved, one set shall be marked with the objections noted and returned to the applicant or developer for correction. Once the construction plans are approved by the City, the owner/developer shall provide additional sets of the approved plans to the City, as specified by the City Manager (or his designee), for use during construction.

After approval of the final plat, construction plans and specifications by the City of Forney, the developer shall cause a contractor to install/construct the public improvements in accordance with the approved plans and the City’s standard specifications, and at the developer’s expense (also see Section 6). The developer shall employ engineers, surveyors and/or other professionals as necessary to design, stake, supervise and perform the construction of such improvements, and shall cause his contractor to construct the said improvements in accordance with these regulations and with the City’s design standards.

Construction plans shall be prepared by or under the direct supervision of a professional engineer registered in the State of Texas, as required by State law governing such professions and in accordance with this Ordinance and the City’s Engineering Design Standards (EDS). All construction plans submitted for City review shall be dated and shall bear the responsible engineer’s registration number, his designation of "professional engineer" or "P.E.", and the engineer’s seal. Construction plans shall be
approved by the City Engineer when such plans meet all of the requirements of this Ordinance and the City’s EDS.

Engineering and construction plans shall be in conformance with the City’s EDS and with the requirements set forth herein. Engineering/construction plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains, sanitary sewers, perimeter sidewalks, screening walls, landscape/irrigation plans (if appropriate), and other engineering details of the proposed subdivision at a scale of one inch equals 40 or 50 feet (1” = 40’ or 50’) horizontally and one inch equals 4, 5, or 10 feet (1” = 4’, 5’ or 10’) vertically shall be submitted to the City Manager (or his/her designee) along with a copy of the final plat of the subdivision. The number of copies as specified by the City shall be submitted along with the final plat submittal.

As part of the engineering/construction plans, a drainage plan showing how the drainage of each lot relates to the overall drainage plan for the plat under consideration shall be submitted. The drainage plan shall be made available to each builder within the proposed subdivision and all builders shall comply with the drainage plan.

The engineering/construction plans shall be valid for a period of one (1) year after approval by the City. The City Manager (or designee) may grant a one (1) year extension, after which they are subject to re-approval by the City if no construction has occurred.

e. Extension Procedure

1. Final plat approval shall be valid for a period of one (1) year from the date of City Council approval.

2. Prior to the lapse of the approval period, the property owner may petition the City Council to extend the final plat approval period. Such petition shall be considered at public meetings before the Planning and Zoning Commission, which shall make a recommendation to the City Council on the petition, and then before the City Council. If no petition for extension of final plat approval is submitted by the property owner/developer prior to the expiration date, the final plat shall be deemed to have expired and shall become null and void.

In determining whether to grant a request for extension, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, the extent to which newly adopted subdivision regulations, if any, would apply to the final plat, and the recommendation of the Commission. The Commission may recommend, and the City Council may grant, an extension of the final plat approval period or denial of the request, in which instance the original final plat shall be deemed to be null and void. The property owner must thereafter submit a new final plat application for approval, and shall conform to the subdivision regulations then in effect.

The Commission may recommend, and City Council may grant, extension of the final plat subject to additional conditions based upon newly enacted City regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Commission may recommend, and City Council may specify, a shorter time for extension of the final plat than the original one-year approval period.

Section 2.7: Development Plats

2.7 a. Authority. This section is adopted pursuant to the Texas Local Government Code, Chapter 212, Subchapter B, Sections 212.041 through 212.050, as amended.

b. Applicability. For purposes of this section, the term "development" means the construction of any building, structure or improvement of any nature (residential or nonresidential), or the enlargement of any external dimension thereof. This section shall
apply to any land lying within the City or within its extraterritorial jurisdiction in the following circumstances:

1. The development of any tract of land which has not been platted or replatted prior to the effective date of this Ordinance, unless expressly exempted herein;
2. The development of any tract of land for which the property owner claims an exemption from the City’s Subdivision Ordinance, including requirements to replat, which exemption is not expressly provided for in such regulations;
3. The development of any tract of land for which the only access is a private easement/street;
4. The division of any tract of land resulting in parcels or lots each of which is greater than five (5) acres in size, and where no public improvement is proposed to be dedicated.

c. Exceptions. No development plat shall be required, where the land to be developed has received final plat or replat approval prior to the effective date of this Ordinance. The City Council may, from time to time, exempt other development or land divisions from the requirements of this section.

d. Prohibition on Development. No development shall commence, nor shall any building permit, utility connection permit, electrical connection permit or similar permit be issued, for any development or land division subject to this section, until a development plat has been recommended for approval by the Planning and Zoning Commission and approved by City Council and filed with the City Manager (or his/her designee). Notwithstanding the provisions of this Section, the City shall not require building permits or otherwise enforce the City’s Building Code in the City’s extraterritorial jurisdiction in relation to any development plat required by this Subdivision Ordinance.

e. Standards of Approval. The development plat shall not be approved until the following standards have been satisfied:

1. The proposed development conforms to all City plans, including but not limited to, the Comprehensive Plan, Thoroughfare Plan, Land Use Plan, park/recreation/open space plan, utility plans and applicable capital improvements plans;
2. The proposed development conforms to the requirements of the Zoning Ordinance (if located within the City’s corporate limits);
3. The proposed development is adequately served by public facilities and services, parks and open space in conformance with City regulations;
4. Appropriate agreements for acceptance and use of public dedications to serve the development have been tendered; and
5. The proposed development conforms to the design and improvement standards contained in this Ordinance and in the City’s EDS.

f. Conditions. The City may impose such conditions on the approval of the development plat as are necessary to assure compliance with the standards in subsection (e) above.

g. Land Study Requirement. Whenever a property owner proposes to divide land into tracts or lots each of which is greater than five (5) acres, and for which no public improvements are proposed, he shall submit a land study together with his application for approval of a development plat in accordance with Section 2.3 of this Ordinance.

h. Approval Procedure. The application for a development plat shall be submitted to the City in the same manner as a final plat (see Sections 2.5 and 2.6), and shall be approved, conditionally approved, or denied by the City Council following review and recommendation by the Planning and Zoning Commission in a similar manner as a final plat. Upon approval, the development plat shall be filed at the County by the City Manager (or his/her designee) in the same manner as a final plat (see Section 2.5).
i. **Submittal Requirements** - In addition to all information that is required to be shown on a final plat (see Section 2.6), a development plat shall:

1. Be prepared by a registered professional land surveyor;
2. Clearly show the boundary of the development plat;
3. Show each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change therein;
4. Show all easements and rights-of-way within or adjacent to the development plat; and
5. Be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City’s plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13.

j. **Extension Procedure.**

1. A development plat shall be valid for a period of one-hundred and eighty (180) days from the date of City Council approval.
2. Prior to the lapse of the approval period for a development plat, the property owner may petition the City to extend the development plat approval period. Such petition shall be considered at a public meeting before the Planning and Zoning Commission, which shall make a recommendation to the City Council on the petition, and then City Council, and an extension may be granted by City Council at such meeting. If no petition for extension of development plat approval is submitted by the property owner/developer prior to the expiration date, the development plat shall be deemed to have expired and shall become null and void. In determining whether to grant a request for extension, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, the extent to which newly adopted subdivision regulations would apply to the development plat, and the recommendation of the Commission. The Commission may recommend, and City Council may grant, extension of the development plat approval period or denial of the request, in which instance the original development plat shall be deemed to be null and void. The property owner must thereafter submit a new development plat application for approval, and shall conform to the subdivision regulations then in effect.

The Commission may recommend, and City Council may grant, extension of the development plat subject to additional conditions based upon newly enacted City regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Commission may recommend, and City Council may specify, a shorter time for extension of the development plat than the original one hundred and eighty (180) day approval period.

### Section 2.8: Replatting

2.8 a. **Replat Required.** Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the final platting of land by these regulations. All improvements shall be constructed in accordance with the same requirements as for a final plat, as provided herein. The City Manager (or designee) may waive or modify requirements for a land study and/or preliminary plat under circumstances where the
previously approved land study or preliminary plat is sufficient to achieve the purposes set forth in this Ordinance.

b. Replatting Without Vacating Preceding Plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

1. Is signed and acknowledged by only the owners of the property being replatted;
2. Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the City Council (no public hearing is required by the Planning and Zoning Commission); and
3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

c. Previous Requirements or Conditions of Approval Which Are Still Valid. In addition to compliance with (b) above, a replat without vacation of the preceding plat must conform to the requirements of this section if:

1. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

d. Notice of the public hearing required under (b) above shall be given before the fifteenth (15th) day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Kaufman County. Notice of the public hearing shall also be given by written notice, with a copy of any requested waivers/suspensions, sent to the owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within two hundred (200) feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved County tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.

e. If the owners of twenty percent (20%) or more of the owners of the area of lots to whom notice is required to be given under Subsection (b) above file with the City a written protest of the replatting before or at the public hearing, and if the replat requires a waiver/suspension as defined in Section 1.11, then approval of the replat will require the affirmative vote of at least three-fourths (3/4) of the City Council members present. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200') from that area, but within the original subdivision, must be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the “20% rule” described above, the area of streets and alleys shall be included.

f. Compliance with Subsection (e) above is not required for approval of a replat or part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

g. Any replat which adds or deletes lots must include the original subdivision and lot boundaries. If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have changed.
h. If the previous plat is vacated as prescribed in Section 212.013 of the Texas Local Government Code, as amended, a public hearing is not required for a replat of the area vacated.

i. The replat of the subdivision shall meet all the requirements for a final plat for a new subdivision that may be pertinent, as provided for herein.

j. The title shall identify the document as a “Final Plat” of the “__________Addition, Block _____, Lot(s) _____, Being a Replat of Block _____, Lot(s) _____ of the ____________Addition, an addition to the City of Forney, Texas, recorded as Plat #_____ in Plat Cabinet #_____ of the Plat Records of Kaufman County, Texas”.

k. An application submittal for a replat shall be the same as for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City’s plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13.

l. The replat shall be filed at the County in the same manner as prescribed for a final plat.

m. **Extension Procedure.**

1. A replat shall be valid for a period of one-hundred and eighty (180) days from the date of City Council approval.

2. Prior to the lapse of the approval period for a replat, the property owner may petition the City to extend the replat approval period. Such petition shall be considered at a public meeting before the Planning and Zoning Commission, which shall make a recommendation to the City Council on the petition, and then City Council, and an extension may be granted by City Council at such meeting. If no petition for extension of the replat approval period is submitted by the property owner/developer prior to the expiration date, the replat shall be deemed to have expired and shall become null and void.

   In determining whether to grant a request for extension, the City Council shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval, the extent to which newly adopted subdivision regulations would apply to the replat, and the recommendation of the Commission. The Commission may recommend, and City Council may grant, extension of the replat approval period or denial of the request, in which instance the original replat shall be deemed to be null and void. The property owner must thereafter submit a new replat application for approval, and shall conform to the subdivision regulations then in effect.

   The Commission may recommend, and City Council may grant, extension of the replat subject to additional conditions based upon newly enacted City regulations and/or State legislation, or such as are necessary to ensure compliance with the original conditions of approval and to protect the public health, safety and welfare. The Commission may recommend, and City Council may specify, a shorter time for extension of the replat than the original one hundred and eighty (180) day approval period.

**Section 2.9: Amending Plats**

2.9 a. An amended plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City’s plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13.
b. The City Manager (or designee) may approve an amending plat, which may be recorded and is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and if the amending plat is for one or more of the purposes set forth in this Section. The procedures for amending plats shall apply only if the sole purpose of the amending plat is to:

1. Correct an error in a course or distance shown on the preceding plat;
2. Add a course or distance that was omitted on the preceding plat;
3. Correct an error in a real property description shown on the preceding plat;
4. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
5. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
6. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
7. Correct an error in courses and distances of lot lines between two adjacent lots if:
   (a) Both lot owners join in the application for amending the plat;
   (b) Neither lot is abolished;
   (c) The amendment does not attempt to remove recorded covenants or restrictions; and
   (d) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
8. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
9. Relocate one or more lot lines between one or more adjacent lots if:
   (a) The owners of all those lots join in the application for amending the plat;
   (b) The amendment does not attempt to remove recorded covenants or restrictions; and
   (c) The amendment does not increase the number of lots; or
10. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
   (a) The changes do not affect applicable zoning and other regulations of the City;
   (b) The changes do not attempt to amend or remove any covenants or restrictions; and
   (c) The area covered by the changes is located in an area that the City has approved, after a public hearing, as a residential improvement area.

c. Notice, a public hearing, and the approval of other lot owners are not required for the approval and issuance of an amending plat.

d. The amended plat shall be entitled and clearly state that it is an "amended plat." It shall also state the specific lots affected or changed as a result of the amended plat, and shall include the original subdivision plat boundary. All references to "final plat" or "replat" shall be removed.

e. Other than noted above, the procedure for approval of plat amendment(s) shall be the same as in Section 2.8.
f. Approval of an amended plat shall expire unless the amended plat is recorded in the plat records of Kaufman County within ninety (90) days after the date of final approval of the amended plat.

g. The amended plat shall be filed at the County in the same manner as prescribed for a final plat.

Section 2.10: Plat Vacation

2.10 a. By Property Owner. The property owner of the tract covered by a plat may vacate, upon the approval of the Planning and Zoning Commission and City Council, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat (instrument language is available from the City, upon request).

b. By All Lot Owners. If some or all of the lots covered by the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

c. Criteria. The Planning and Zoning Commission and City Council shall approve the petition for vacation on such terms and conditions as are in accordance with Section 212.013 of the Texas Local Government Code, and as are reasonable to protect the public health, safety and welfare. As a condition of vacation of the plat, the City Council may direct the petitioners to prepare a revised final plat in accordance with these regulations such that the property does not become “unplatted”.

d. Effect of Action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Planning and Zoning Commission's and City Council's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Planning and Zoning Commission and City Council.

e. City-Initiated Plat Vacation.

1. General Conditions. The Planning and Zoning Commission and City Council, on its motion, may vacate the plat of an approved subdivision or addition when:

   a. No lots within the approved plat have been sold within five (5) years from the date that the plat was signed by the City;

   b. The property owner has breached an improvement agreement and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by property owner or its successor; or

   c. The plat has been of record for more than five (5) years and the City determines that the further sale of lots within the subdivision or addition presents a threat to public health, safety and/or welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

2. Procedure. Upon any motion of the Planning and Zoning Commission or City Council to vacate the plat of any previously approved subdivision or addition, in whole or in part, the Commission shall publish notice in a newspaper of general circulation in the County. The Commission shall also provide personal notice to all property owners within the subdivision or addition and to the City Council. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision or addition plat. The Commission shall recommend approval and the City Council shall approve the vacation only if the criteria and conditions cited above are satisfied.
3. **Record of Notice.** If the Commission and City Council approve vacating a plat, the City Manager (or his/her designee) shall record a copy of the resolution or ordinance in the office of the County Clerk of Kaufman County with a copy of the area or plat vacated. The County Clerk shall write legibly on the vacated plat the word “vacated” and shall enter on the plat a reference to the location (i.e., cabinet, volume, page, etc.) at which the vacating instrument is recorded. If the Commission and City Council adopt a resolution or ordinance vacating a plat in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated. On the execution and recording of the vacating instrument the vacated plat has no effect.

**Section 2.11: Minor Plats**

2.11 a. A minor plat shall meet all of the informational and procedural requirements set forth for a final plat, and shall be accompanied by the required number of copies of the plat, a completed application form, the required filing fee (per the City’s plat submission guidelines, as may be amended from time to time), and a certificate showing that all taxes have been paid on the subject property and that no delinquent taxes exist against the property in accordance with Section 1.13.

b. The City Manager (or designee) may approve a minor plat, or may, for any reason, elect to present the minor plat to the Planning and Zoning Commission and City Council for consideration and approval. Any decision made on the minor plat by the City Manager (or designee) shall be approval of the plat. Should the City Manager (or designee) refuse to approve the minor plat, then the plat shall be referred to the Planning and Zoning Commission and/or City Council for consideration within the time period required by State law.

c. Notice, a public hearing, and the approval of other lot owners are not required for the approval a minor plat.

d. The minor plat shall be entitled and clearly state that it is a "minor plat."

e. Approval of a minor plat shall expire unless the minor plat is recorded in the plat records of Kaufman County within ninety (90) days after the date of final approval of the minor plat.

f. The minor plat shall be filed at the County in the same manner as prescribed for a final plat.
III. SUBDIVISION DESIGN STANDARDS

Section 3.1: Streets

3.1 a. The arrangement, character, extent, width, grade and location of all streets shall conform to the City of Forney’s Thoroughfare Plan and EDS, and shall be considered in their relation to existing and planned streets or driveways (whether within the City of Forney, within its ETJ area, or within adjacent municipal or County areas), to topographical conditions, to public safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Reserve or residual strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for subdivision purposes, or which will not be taxable or accessible for improvements shall not be permitted in any subdivision unless such are required by the City in the public interest (such as to enhance public safety or other public interest). All streets shall be constructed in accordance with Section 5 and with the EDS.

b. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation, shall be properly related to the Thoroughfare Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. All streets shall be open and unobstructed at all times.

c. Adequacy of Streets and Thoroughfares.

1. Responsibility for Adequacy of Streets and Thoroughfares. The property owner shall assure that the subdivision is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City's cost participation policies on oversized facilities.

2. General Adequacy Policy. Every subdivision shall be served by improved streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation; shall be properly related to the City's Thoroughfare Plan, road classification system, Comprehensive Plan and any amendments thereto; and shall be appropriate for the particular traffic characteristics of each development.

3. Road Network. New subdivisions shall be supported by a road network having adequate capacity, and safe and efficient traffic circulation. The adequacy of the road network for developments of one hundred (100) or more dwelling units, or for developments generating one thousand (1,000) or more "one-way" trips per day, or for developments involving collector and/or arterial streets not appearing on the City's adopted Thoroughfare Plan, shall be demonstrated by preparation (and submission prior to or along with the land study or preliminary plat application) of a traffic impact analysis prepared in accordance with subsection (f), Traffic Impact Analysis, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the City Council may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed land study or plat. In the event that the applicant submits a traffic impact analysis for an entire phased development project, the City may require an update of the study for later phases of the development. If the land study/plat is in conformance with the Thoroughfare Plan and if the land study/plat is for a development of less than one hundred (100) dwelling units or for a
development generating less than one thousand (1,000) "one-way" trips per day, then a traffic impact analysis is not required.

4. **Approach Roads and Access.** All subdivisions must have at least two (2) points of vehicular access (primarily for emergency vehicles), and must be connected to the City's improved thoroughfare and street system by one or more approach roads of such dimensions and approved to such standards as are hereinafter set forth. Requirements for dedication of right-of-way and improvement of approach roads may be increased depending upon the density or intensity of the proposed development, if such need is demonstrated by traffic impact analysis.

   (a) "Two (2) points of vehicular access" shall be construed to mean that the subdivision has at least two (2) roads accessing the subdivision from the City's improved thoroughfare/street system (i.e., at least two road entrances). The City Council may, at its discretion and upon a finding that such will not compromise public safety or impede emergency access, accept a single median-divided entrance from the City's improved thoroughfare/street system provided that the median extends into the subdivision for an unbroken length of at least one hundred feet (100') to an intersecting internal street which provides at least two (2) routes to the interior of the subdivision (i.e., the street is not a dead-end or cul-de-sac, and does not create a "bottleneck" allowing only one emergency route into the interior of the subdivision). (Also see Section 3.1u.)

   (b) The subdivision shall be designed to provide adequate emergency access for public safety vehicles. Each residential lot in the subdivision shall have a minimum frontage on a dedicated street as required by applicable zoning (or if no such requirement exists, minimum frontage of 35'), unless other provisions have been authorized through planned development approval.

5. **Off-Site Improvements.** Where traffic impact analysis demonstrates the need for such facilities, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or related developments. The City may participate in the costs of oversize improvements with the subdivider as set out herein, and subject to the City's cost participation policies on oversize improvements.

6. **Street Dedications.**

   (a) **Dedication of Right-of-Way.** The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan or other valid development plans approved by City Council. In the case of perimeter streets, half of the total required right-of-way width for such streets shall be provided. However, in some instances more than half of the required width shall be required when a half street is impractical or unsafe and depending upon the actual or proposed alignment of the street (i.e., as in a curved street), as may be required by the City Council.

   (b) **Perimeter Streets.** Where an existing half-street is adjacent to a new subdivision or addition, the other half of the street shall be dedicated and improved by the developer of the subdivision or addition.

   (c) **Slope Easements.** The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall be no steeper than three feet (3') horizontal run to one foot (1') vertical height (i.e., 3:1 slope).

7. **Street Construction.** All streets and thoroughfares shall be constructed of reinforced concrete to City standards and within rights-of-way as required by the Thoroughfare
Plan and these Regulations, and in accordance with the EDS and/or other City standards as may be from time to time adopted.

8. **Intersection improvements and traffic control devices** shall be installed as warranted in accordance with the traffic impact analysis required by subsection (f). Construction and design standards shall be in accordance with City standards and the EDS.

9. **Phased Development.** Where a subdivision is proposed to occur in phases, the subdivider, in conjunction with submission of the preliminary plat, shall provide a schedule of development. The schedule shall set forth the intended plan of development and dedication of rights-of-way for streets and street improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. The Council shall determine whether the proposed streets and street improvements are adequate pursuant to standards herein established, and may require that a traffic impact analysis be submitted for the entire project or such phases as the Council determines to be necessary to adjudge whether the subdivision will be served by adequate streets and thoroughfares.

10. *(Reserved)*

d. **Escrow Policies and Procedures.**

1. **Request for Escrow.** Whenever these regulations require a property owner to construct a street or thoroughfare (or other type of public improvement), the property owner may petition the City to construct the street or thoroughfare in exchange for deposit of escrow as established in this section. If more than one street or thoroughfare must be constructed in order to meet adequacy requirements for roadways, as demonstrated by a traffic impact analysis, the City 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. The City Council shall determine whether escrow is to be accepted in lieu of the obligation to construct the street or thoroughfare.

2. **Deposit With the City.** Whenever the City agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner or developer shall deposit an amount equal to his share of the costs of design and construction in escrow with the City. Such amount shall be paid prior to release of construction plans by the City. The obligations and responsibilities of the property owner shall become those of property owner's transferees, successors and assigns; and the liability therefore shall be joint and several.

3. **Determination of Escrow Amount.** The amount of the escrow shall be determined by using the average of several comparable bids that were awarded by the City in the preceding six (6) months or, if none exist, then in the preceding year or, if none exist, by using current costs of construction as determined by an estimate by the City. Such determination shall be made as of the time the escrow is due hereunder.

4. **Termination of Escrow.** Escrows which have been placed with the City under this section which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall, upon written request, be returned to the property owner, with accrued interest. Such return does not remove any obligations of the 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.

5. **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 developer 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 owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

6. **Interest Limitation.** If money is refunded within six (6) months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent (1%) less than the rate of actual earnings.

e. Any land study or plat involving a significant change to a proposed roadway alignment from that shown on the City of Forney's Thoroughfare Plan (or involving a development of one hundred [100] or more dwelling units, or for developments generating one thousand [1,000] or more "one-way" trips per day) must be preceded by submission and approval of a traffic impact analysis as specified in subsection (f) below. Failure to provide for such approval prior to submission of a land study or preliminary plat (or concurrently with the land study/preliminary plat applications) shall be grounds for automatic denial.

f. **Traffic Impact Analysis.** Whenever these regulations (or the City, in unique instances which do not necessarily meet the above criteria but which may significantly affect the public health, safety and/or welfare, such as a proposed subdivision that will only be accessed via substandard roadways which may pose an impediment to emergency response vehicles) require submission and City approval of a traffic impact analysis, the following elements shall be included:

1. **General Site Description.** The traffic impact analysis shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated states of construction, and the anticipated completion date of the proposed land development shall be provided. This description, which may be in the form of a map, shall include the following items: (1) all major intersections; (2) all proposed and existing ingress and egress locations; (3) all existing roadway widths and rights-of-way; (4) all existing traffic signals and traffic-control devices; and (5) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.

2. **Proposed Capital Improvements.** The traffic impact analysis shall identify any changes to the roadway network within one (1) mile of the site that are proposed by any government agency or other developer. This description shall include the above items as well as any proposed construction project that would alter the width and/or alignment of roadways affected by the proposed development.

3. **Roadway Impact Analysis.**

   (a) **Transportation Impacts:**

   (1) **Trip Generation.** The average weekday trip generation rates (trip ends), the average weekend trip generation rates (for uses other than residential or institutional), the highest average a.m. and p.m. hourly weekday trip generation rates, and the highest hourly weekend generation rates (for uses other than residential or institutional) for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the Institute of Transportation Engineers, Trip Generation Manual; or shall be based upon data generated by actual field surveys of area uses compatible to the proposed use and approved by the City Manager (or designee) and/or the City Engineer of the City of Forney.

   (2) **Trip Distribution.** The distribution of trips to arterial and collector roadways within the study area identified in subsection 3.1f.1 (General
Site Description) above shall be in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding existing and anticipated land uses, population and employment; existing and projected daily traffic volumes; and existing traffic conditions identified pursuant to subsection 3.1f.1 above.

(b) **Adequacy Determination.** The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials and collectors can accommodate the existing service volume, and the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at a level of service “C” or above.

4. **Intersection Analysis.**

(a) **Level of Service Analysis.** For intersections within the roadway traffic impact analysis area described in subsection 3.1f.1 herein (General Site Description), a level of service analysis shall be performed for all arterial/arterial, arterial/collector, and collector/collector intersections, and for any other pertinent intersections identified by City staff. Also, level of service analyses will be required on all proposed site driveway locations for all non-residential developments. The City may waive analysis of minor intersections and site driveway locations within the one-mile radius. The level of service analysis shall be based upon the highest hourly average a.m. or p.m. peak weekday volume or highest average hourly peak weekend volume as determined from a two-day survey of weekday volumes and, where necessary, a one-day survey of weekend volumes. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage (and typical size) of trucks, intersection width, number of lanes, signal timing and progression, roadway grades, pedestrian and bicycle flows, school routes, number of accidents, and peak hour factor.

(b) **Adequacy Analysis.** The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service “C” or above.

5. **Effect of Adequacy Determination.** If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area identified in subsection 3.1f.1 herein that would cause the roadway to fall below the level of service required hereto, the proposed development shall be denied unless the developer agrees to one of the following conditions:

(a) The deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed;

(b) A reduction in the density or intensity of development;

(c) The dedication and/or construction of facilities needed to achieve the level of service required herein; or

(d) Any combination of techniques identified herein that would ensure that development will not occur unless the levels of service for all roadways and
intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

g. Arrangement of Streets Not Shown on the Thoroughfare Plan. For streets that are not shown on the City’s Thoroughfare Plan (e.g., local residential streets), the arrangement of such streets within a subdivision shall:

1. Provide for the continuation or appropriate projection of existing streets from or into surrounding areas;
2. Conform to a plan for the neighborhood approved or adopted by the City to meet a particular situation where topographical or other conditions make continuance or conformity to existing streets impractical;
3. Provide for future access (i.e., provide stubbed streets for future extension) to adjacent vacant areas which will likely develop under a similar zoning classification and/or for a similar type of land use; and
4. Not conflict in any way with existing or proposed driveway openings.

5. A minimum of 50 percent of residential streets in a subdivision shall be curvilinear in design. The term “50 percent” shall mean that half the total linear feet of streets in a subdivision shall be curvilinear. The term "curvilinear in design" shall refer to any street segment which is designed with a degree of curvature not less than 3° 30’ and not greater than 22° 55’, and which shall offset a minimum distance of 30 feet, said offset being measured perpendicular to the initial tangent line of the curve. Computation of percentage of curvilinear streets shall utilize the centerline of all interior streets, excluding streets with a right-of-way width greater than 50 feet.

h. Minor residential streets shall be laid out such that their use by through traffic will be discouraged (e.g., via circuitous routes, multiple turns/offsets, etc.), but access is provided to adjacent subdivisions.

i. Where a subdivision abuts or contains an existing or proposed arterial street, the City may require marginal access streets, reverse frontage (lots which back onto the arterial), deep lots with rear service alleys, or such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

j. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed by the City under conditions approved by the Planning and Zoning Commission and City Council.

k. Intersecting, undivided streets with centerline offsets of less than one hundred twenty-five feet (125’) shall be avoided. Intersecting streets onto a divided roadway must be configured such that the centerline offset will accommodate the appropriate left-turn lanes (with required transition and stacking distances) onto each of the two intersecting streets.

l. Major thoroughfare intersections shall be at ninety degree (90°) angles and tangent to the intersecting street for at least fifty feet (50’). Other street intersections shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect at less than eighty degrees (80°).

m. Street right-of-way widths shall be as shown on the Thoroughfare Plan and as defined by the corresponding roadway cross-sections in the Comprehensive Plan.

n. Construction of half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of these regulations and the Thoroughfare Plan, and where the City makes a determination that there is no immediate benefit to be gained by constructing the full street section since no access from the street will be needed by the subdivision in question. The City may also find that it would be more practical (and/or cost effective) to delay construction of the other half of a street when the adjoining property is developed.
If the owner or subdivider is responsible for one-half (½) of the street, then the owner or subdivider shall either construct the facility along with his development or shall provide escrow for the construction cost of his share of the facility unless the City participates in the construction of the facility. Whenever a partial street has been previously platted along a common property line, the other portion of the street (i.e., whatever amount of right-of-way that will bring the street up to its standard width) shall be dedicated. Improvements shall be made to all on-site facilities as defined herein (see Definitions, Section 1.16).

o. The maximum length of any block or street segment shall be one thousand two hundred feet (1,200'), as measured along the street centerline and between the point(s) of intersection with other through (i.e., not dead-end or cul-de-sac) streets.

p. A cul-de-sac street shall not be longer than six hundred feet (600'), and at the closed end shall have a turn-around bulb with an outside pavement diameter of at least eighty feet (80') and a right-of-way diameter of at least one hundred feet (100'). The length of a cul-de-sac shall be measured from the centerline of the intersecting street to the centerline of the cul-de-sac bulb.

a. The Planning and Zoning Commission and/or City Council may approve waivers/suspensions for overlength streets and/or cul-de-sacs (temporary or permanent) upon considering the following:

   (a) Alternative designs which would reduce street/cul-de-sac length;

   (b) The effect of overlength streets upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in traveling to and from their homes; and

   (c) Means of mitigation, including but not limited to additional mid-block street connections, limitation on the number of lots to be served along an overlength street segment or cul-de-sac, temporary (or permanent) points of emergency access, and additional fire protection measures.

r. Except in unusual cases, no dead-end streets will be approved unless such dead-end streets are provided to connect with future streets on adjacent land. In the case of dead-end streets which will eventually be extended into the adjacent subdivision, no more than one lot (per side) can front onto the dead-end street stub unless a temporary turn-around bulb (with an off-site easement) is provided at the end. A temporary dead-end street shall not exceed six hundred feet (600') in length, and the temporary turn-around bulb must be constructed like a cul-de-sac, as provided in subsection (p) above (the City Manager, or his/her designee, may authorize the use of asphalt or other durable paving material than concrete for the arc portions of the temporary turn-around bulb in order to minimize the cost of removing those portions later on). A note shall be placed on the final plat clearly labeling any dead-end streets (if any) that will at some point be extended into the adjacent property, and signage shall be placed at the end of the constructed street stub (i.e., on the barricade) also stating that the street will be extended in the future (signage and lettering must be large enough to be legible by a person with normal vision at a twenty-foot distance).

s. New streets which extend existing streets shall bear the names of the existing streets, and shall be dedicated at equal or greater right-of-way widths than the existing streets.

t. Construction of New Streets. All new streets dedicated within a subdivision shall be constructed in accordance with paving widths and specifications as set forth in the EDS of the City of Forney at the time at which the preliminary plat is approved.

u. Points of Access. All subdivisions shall have at least two (2) points of access from improved public roadways (also see Section 3.1c.4). All residential developments shall provide no less than one (1) entrance for every seventy-five (75) lots, or portion thereof,
including dead-end stubbed streets that will eventually provide connections into adjacent future developments and thence to an existing arterial or collector street.

v. Streets will be constructed in accordance to the City’s construction standards (i.e., EDS) that are in effect at the time of subdivision construction.

Section 3.2: Alleys

3.2 a. Alleys may be required in residential areas where dwelling units contain rear-entry garages. Alleys shall be optional in commercial and industrial districts. Service alleys in commercial and industrial districts shall be a minimum right-of-way of twenty-five feet (25') and a pavement width of fifteen feet (15') unless they must serve as fire lanes (which require a minimum pavement width of 24 feet).

b. Residential alleys shall not be required except to connect to a subdivision with existing alleys for the purpose of providing continuity. If alleys are constructed or required, the following standards shall be met:

1. In residential districts, alleys shall be parallel, or approximately parallel, to the frontage of the street. Alleys in residential districts shall provide a minimum of fifteen feet (15') of right-of-way and ten feet (10') of pavement.

2. Alleys shall be paved in accordance with the City of Forney’s construction standards (i.e., EDS) that are in effect at the time of subdivision construction.

3. Where the deflection of alley alignment occurs, the design of the paving and property line shall be as established by the EDS.

4. Dead-end or “hammerhead” alleys shall not be allowed. Alleys must have adequate turnouts and street entrances such that vehicular traffic flow is continuous and efficient. Where a temporary dead-end alley situation is unavoidable, a temporary turn-around bulb or turnout onto a street (either of which will need a temporary easement for street/alley purposes) shall be provided as determined by the City Manager (or his/her designee).

5. Alleys may not exceed a maximum length of one thousand two hundred feet (1,200'), as measured along the centerline of the alley and between intersections with other alleys or entrances onto streets (at the right-of-way line of the street at the alley entrance). The Planning and Zoning Commission and/or City Council may approve waivers/suspensions for overlength alleys upon consideration of the following:

(a) Alternative designs which would reduce alley length;

(b) The effect of overlength alleys upon access, congestion, delivery of municipal services, and upon convenience to residents of the subdivision in accessing rear driveways and in driving around to the front of their homes; and

(c) Means of mitigation, including but not limited to additional mid-block alley turnouts, limitation on the number of lots to be served along a single alley segment, temporary points of access, and additional fire protection measures.

6. Alley intersections shall be perpendicular (i.e., 90°), and intersection pavement shall be of sufficient width and inside radius to accommodate waste collection vehicles. Intersections shall be three-way wherever possible and four-way intersections shall be avoided. No alley intersection serving more than four directions shall be allowed.

Section 3.3: Easements

3.3 a. The minimum width for City utility and drainage easements shall be fifteen feet (15') unless otherwise established by the City Manager (or his/her designee). The width of easements for other utility providers (e.g., gas, electric, telephone, cable TV, etc.) shall be as required by that particular entity. It shall be the subdivider’s responsibility to
determine appropriate easement widths required by other utility companies (also see Section 3.8). Wherever possible, easements shall be centered and/or along rear or side lot lines rather than across the interior or front of lots.

b. Where a subdivision is traversed by a watercourse, drainageway, or channel, there shall be provided a storm water easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the City Manager (or his/her designee), subject to determination according to proper engineering considerations. The required width shall conform to the requirements set forth by the Federal Emergency Management Agency (FEMA). Parallel streets or parkways may be required adjacent to certain portions of creek or drainageways to provide maintenance access or access to recreation areas (see Section 4). City approved utilities may be permitted within the drainage easement if approved by the City Manager (or his/her designee).

c. A lot’s area shall be computed inclusive of all easements. However, there shall be a minimum buildable area, exclusive of easements, for each lot. The minimum buildable area shall be an area one-half (½) of the required minimum lot size. If the City disputes the buildable area of any lot, the subdivider shall submit verification in writing that the buildable area is adequate for the type of housing product (or nonresidential building) proposed for that lot.

d. Where alleys are not provided in a residential subdivision, a minimum ten-foot (10’) wide utility easement shall be provided along the front property line (i.e., street frontage) of all lots and adjacent to the right-of-way.

e. For new development, all necessary on-site easements shall be established on the subdivision plat (i.e., not by separate instrument), and they shall be labeled for the specific purpose (and to the specific entity) for which they are provided. Examples would include the following: water, sanitary sewer and/or drainage easement (dedicated to the City for a water or sanitary sewer line, or for a drainage structure); access easement (dedicated to the public for unrestricted access purposes); fire lane easement (dedicated to the City for emergency access purposes); TXU easement (dedicated to Texas Utilities); etc.

**Section 3.4: Blocks**

3.4 a. The length, width and shapes of blocks shall be determined with due regard to:

1. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
2. Zoning requirements as to lot sizes, setbacks and dimensions.
3. Needs for convenient access, circulation, control and safety of street traffic and/or for pedestrians or bicyclists traveling to a public park or school site within the neighborhood.

b. In general, intersecting streets, which determine the lengths and widths of blocks, shall be provided at such intervals as to serve cross-traffic adequately, to provide adequate fire protection, and to conform to customary subdivision practices. Where no existing subdivision controls, the block lengths shall not exceed one thousand two hundred feet (1,200’) in length. Where no existing subdivision controls, the blocks shall not be less than five hundred feet (500’) in length; however, in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied, the length may be increased or decreased (via a waiver/suspension by City Council with plat approval) to meet the existing conditions having due regard for connecting streets, circulation of traffic and public safety.

**Section 3.5: Sidewalks**
3.5  a. Pedestrian concrete sidewalks not less than four feet (4') wide shall be provided within all residential subdivisions, and sidewalks not less than five feet (5') wide shall be provided within all non-residential developments and along all perimeter roadways (for both residential and non-residential developments), as set forth in the City of Forney’s EDS. Sidewalks shall be constructed within the street right-of-way and in accordance with the City’s EDS, and shall be installed prior to acceptance of the subdivision by the City and prior to filing the final plat at the County (unless surety is provided, per Section 6). In any event, a Certificate of Occupancy will not be issued until the required sidewalks are in place. In certain instances, the City Council may, at its sole discretion, approve placement of the sidewalk adjacent to the curb provided that such placement benefits the general public by allowing more space for landscaping (e.g., street trees, screening shrubs, decorative walls and fences, etc.) and provided that the width is increased to five feet (5') of sidewalk pavement.

b. The cost and provision of any perimeter sidewalks (i.e., along major thoroughfares) may be escrowed as a part of a developers agreement, if approved by the City Manager (or his/her designee). The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety or welfare.

Section 3.6: Lots

3.6  a. Lots shall conform to the minimum requirements of the established zoning district.

b. Each lot shall front onto a dedicated, improved public street in accordance with these regulations (see Section 3.1c.10.). Lot width and access shall conform with the provisions of the City of Forney’s Zoning Ordinance, Comprehensive Plan, and/or any other applicable City code or ordinance. Lot access onto arterial and collector streets is subject to approval by the City Manager (or designee) and/or the City Engineer, either of whom may require a traffic study or other data/information prior to approval of the preliminary plat in order to fully study all access issues. In all cases, lots shall have a minimum of thirty-five feet (35') of frontage along a dedicated, improved street.

c. Irregular-shaped lots shall have sufficient width at the building line to meet lot width and frontage requirements of the appropriate zoning district and to provide a reasonable building pad (in the opinion and at the discretion of City Council). Also, the rear width shall be sufficient to provide access for all necessary utilities, including garbage collection when alleys are present.

d. Side lot lines shall be generally at right angles or radial to street lines.

e. Double frontage lots shall be avoided, except where they may be essential to provide separation of residential development from traffic arterials as defined in Section 3.1 or to overcome specific disadvantage/hardship posed by topography and/or other factors. Where lots have double frontage, building setback lines shall be established for each street side. Screening shall be provided in accordance with Section 5.7.

f. Double frontage lots in residential subdivisions will not be allowed without providing appropriate screening, in accordance with Section 5.7.

Section 3.7: Building Lines

3.7 Front and street side building lines shall be shown on the preliminary and final plat for all lots, and shall be consistent with the Zoning Ordinance requirements for the district in which the development is located (if subject to the City’s zoning regulations).

Section 3.8: Utility Services (not provided by the City of Forney)

3.8  a. For purposes of this section, the following meanings shall apply:
1. "Utility services" - The facilities of any person, firm or corporation providing electric, natural gas, telephone, TV cable, or any other such item or service for public use approved but not provided by the City of Forney.

2. "Feeder or feeder/lateral line" - High voltage supply electric lines carrying more than 69,000 volts that emanate from substations used to distribute power through an area to an unspecified number of customers.

3. "Lateral lines" - Those electric or telephone lines used to distribute power from a feeder line to a single subdivision. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse.

4. "Service lines" - Those electric lines used to connect between the utilities’ supply system or lateral lines and the end user’s meter box.

b. All subdivision plats and construction plans filed with and submitted to the City of Forney for approval shall provide for utility services such as electrical, gas, telephone and cable TV utility (lateral and/or service distribution) lines and wires to be placed underground. Feeder and other major transmission lines may remain overhead within the appropriate easements. However, a subdivider shall endeavor and, whenever practical, the City shall require that feeder lines are placed away from major or minor thoroughfares/arterials (as shown on the Thoroughfare Plan). Whenever practical, feeder lines which are to be placed overhead shall not be placed along both sides of the street right-of-way. Verification of acceptance of easement locations and widths by the public utilities shall be provided prior to final plat approval by the City Council, and all easements shall be reviewed by the utility companies and by the City Manager (for those dedicated to the City), or his/her designee, prior to granting final approval for any subdivision affected by this section.

c. Each of the utility companies shall be responsible for developing administrative policies, criteria for easement size, and cost reimbursement procedures for the installation and extension of their underground utilities. Nothing herein shall prohibit or restrict any utility company from recovering the difference in cost of overhead facilities and underground utilities from the owner or developer in accordance with the provisions of such utility's approved tariff. No utility company shall be required or permitted to begin construction of underground facilities unless and until the owner or developer of the subdivision has made arrangements satisfactory to the specific utility company for the payment of such difference between the cost of overhead facilities and underground facilities.

d. All electrical and telephone support equipment, including transformers, amplifiers, and switching devices necessary for underground installations, shall be pad-mounted or mounted underground, but not overhead (unless the subdivision is served from perimeter overhead electrical facilities).

e. Temporary construction service may be provided by overhead electric lines and facilities without obtaining a waiver/suspension or exception, provided that when the underground utility service to any portion of a subdivision is completed, such overhead electric lines and facilities are promptly removed.

f. Nothing in this section shall be construed to require any existing facilities in place prior to the effective date of this Ordinance to be placed underground.

Section 3.9: Water and Wastewater Facility Design

3.9 a. All new subdivisions shall be connected with an approved water system designed and constructed in accordance with the EDS, as amended, and shall be capable of providing water for health and emergency purposes, including fire protection. All subdivisions must be served by an approved means of wastewater collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate water and/or wastewater capacity. It shall be the subdivider’s responsibility to extend utility lines to provide water or sanitary sewer service.
b. It shall be the subdivider’s responsibility to design all improvements according to the City’s then current Comprehensive Plan, utility/infrastructure system plans, and EDS. The City may require that the subdivider oversize the water system and/or the sanitary sewer system where necessary to serve land other than the tract or lots to be platted, including the oversizing of off-site water or sewer mains necessary to extend service to the property to be platted. The cost to be borne by the subdivider and any reimbursement from subsequent users of the facility shall be in accordance with the provisions of the City’s policy(s) regarding same, and subject to the City’s cost participation policies on oversized improvements.

c. Extension of water and wastewater lines adjacent to any subdivision shall be made along the entire frontage of the subdivision adjacent to a street or thoroughfare. If the subdivision is not adjacent to a thoroughfare, the extension of utilities shall be accomplished in such a manner as to allow future connection to said utilities by new subdivisions. If new subdivisions will never be constructed beyond a developing subdivision due to physical constraints, the City Manager (or his/her designee) may waive the requirement for adjacent utility line construction.

d. Installation of utilities not specifically referenced herein shall comply with Texas Natural Resource Conservation Commission (TNRCC) and/or other applicable State rules and regulations.

Section 3.10: Stormwater Collection/Conveyance Systems

3.10 a. System Design Requirements. Drainage improvements shall accommodate runoff from the upstream drainage area, and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No stormwater collection system shall be constructed unless it is designed in accordance with the City of Forney’s construction standards (i.e., EDS) by a registered professional engineer and approved by the City Manager (or his/her designee) and City Council. All developed areas shall have concrete curb and gutter drainage systems. All plans submitted to the City Manager (or his/her designee) for approval shall include a layout of the system together with supporting calculations for the design of the system. In addition to any others, the plans shall conform to the City of Forney’s EDS, and shall conform to the following standards and minimums:

1. All drainage systems must be designed for a one hundred (100) year base storm intensity.

2. Run-off conveyed in roadway drainage ditches shall be confined to the ditch. The flow velocity in the ditch shall not exceed six feet (6’) per second, and the ditch side slopes shall not exceed three feet (3’) horizontal to one foot (1’ vertical (i.e., 3:1 slope). The center of the ditch shall be at least ten feet (10’) from the road edge.

3. No cross-street (i.e., perpendicular to traffic flow) flow of run-off shall be permitted unless approved by the City Manager (or his/her designee). When such drainage is allowed, it must be across a concrete street (i.e. valley gutter) and as approved by the City Manager (or his/her designee).

4. For drainage in creeks or streams, or if the natural condition is altered by the developer, for any excavated channels, if the flow is greater than six feet (6’) per second or the slope exceeds 3:1, limestone or similar acceptable rock, a reinforced concrete pilot channel, a concrete channel lining, and/or some other erosion prevention device shall be required by the City. Location and type of construction of the open channel and all other drainage structures must be approved by the City Manager (or his/her designee). These drainage facilities must be within an easement to ensure protection of the area and access for maintenance.
5. If the flow is less than six feet (6’) per second and if the slope does not exceed 3:1, the creek or excavated channel may be platted as part of the individual lots. The owners of these lots will be responsible for maintenance. Sufficient access shall be provided to provide for protection of these areas and for maintenance purposes.

6. For erosion and sedimentation control, the City uses the “Storm Water Quality Best Management Practices for Construction Activities in North Central Texas” (by NCTCOG), a copy of which is on file in the City Manager’s (or designee’s) office.

   b. No 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 of the City or other agency (e.g., FEMA) having jurisdiction. The City may, at its option, require preparation and submission of a FEMA/flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the developer.
IV. PUBLIC SITES AND OPEN SPACES

Section 4.1: Areas for Public Use

4.1 a. The subdivider shall give consideration to suitable and adequate sites for schools, parks, playgrounds, and other areas for public use or service so as to conform with the recommendations contained in the City's Comprehensive Plan, park/recreation/open space master plan, and other applicable plans. Any provision for schools, parks and/or other public facilities shall be indicated on the preliminary and final plat, and shall be subject to approval by the Planning and Zoning Commission and City Council.

Section 4.2: Protection of Drainage and Creek Areas

4.2 a. Definitions and Methodology for Determining the Floodway Management Area (FMA). The definitions for "floodway" and "floodway fringe" shall correspond to those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of flood plain management. Under this concept, the area of the 100-year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100-year flood is termed the floodway fringe. The floodway fringe is the area which can be used for development by means of fill according to FEMA and City engineering criteria.

For the purposes of this Ordinance, the Floodway Management Area (FMA) will correspond to the floodway, as defined by FEMA.

b. Areas Where an FMA is Required. All drainage areas or regulated floodways as referenced by panel numbers 480409, 4804099999, 4804110175 and/or 4804110100 (and/or other current panels) on the Floodway and Flood Boundary Map (FIRM maps) shall be included in the FMA. If FEMA does not specify a floodway zone in any of the creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a registered professional engineer and approved by the City Manager (or his/her designee). Where improvements to a drainage area are required by other ordinances of the City for the purpose of safety or other reasons related to drainage, those ordinances shall also be observed. The FMA is intended to apply to a creek or channel which is to remain open or in its natural condition. The creek shall remain in its natural state unless improvements are permitted or required by the City due to the pending development of properties adjacent to or upstream of the required improvements.

c. Ownership and Maintenance of the FMA. The area determined to be the FMA shall be designated on and part of the final plat. Approximate locations shall be shown on zoning change requests and preliminary plats -- accurate locations of the FMA shall be established on the final plat. At the City's option, the FMA shall be protected by one of the following methods:

1. Dedicated to the City of Forney; or
2. Easement(s). Creeks or drainageways in tracts which have private maintenance provisions, other than single- or two-family platted lots, can be designated as the FMAs by an easement to the City on the final plat (with the appropriate plat language, as required by the City). Subdivisions with platted single-family or two-family lots may designate the FMA by easement provided there is adequate maintenance provisions, but no lots or portions of lots may be platted in the easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number; or
3. Certain recreational uses normally associated with or adjacent to flood prone areas (no structures allowed in the FMA), such as golf courses. The uses allowed shall be in conformance with the Zoning Ordinance and approved by the Planning and Zoning Commission and City Council.

Prior to acceptance of any drainageway as an FMA by the City, the area shall be cleared of all debris. Floodway management areas dedicated to the City shall be left in a natural state except those areas designated for recreational purposes.

d. Design Criteria. The following design criteria shall be required for development adjacent to the FMA:

1. Adequate access must be provided to and along the FMA for public and/or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet (5') shall be provided.

2. Lots in a single-family, PD single-family or duplex residential zoning district shall not be platted within the FMA, and no more than fifty percent (50%) of the length of the FMA (on each side) shall be allowed to have lots backing or siding onto it. If lots back or side onto an FMA, at least two reasonable points of access to the FMA, each a minimum of twenty feet (20') in width, shall be provided. Streets, alleys and open-ended cul-de-sacs may qualify as access points if designed such that they are navigable by maintenance vehicles (e.g., alleys must be twenty-foot width). All areas of the FMA must be accessible from the access points. Lots used for multi-family may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents, and provided that access to the FMA is possible by City maintenance vehicles, should that need arise.

3. Public streets may be approved in the FMA by the Planning and Zoning Commission and City Council (if they conform to applicable engineering standards).

4. Public streets may be required to be constructed adjacent to some (or all) portions of the FMA to allow access for maintenance or recreational opportunities, and/or to allow increased visibility into creek areas for public safety and security purposes.

5. Alternate designs to facilitate equal or better access may be permitted if approved by the City Manager (or his/her designee).

Section 4.3: Property/Homeowners Associations

4.3 a. Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City of Forney for public use (e.g., private recreation facility, landscaped entry features, privately owned streets, etc.), a property/homeowners association agreement consistent with State and other appropriate laws, must be submitted to and approved by the City Manager (or designee), and made a part of the final plat documents. The Conditions, Covenants and Restrictions (i.e., CCRs) and the association documents (i.e., articles of incorporation, by-laws) shall be submitted to the City for review and City approval along with the final plat application, and shall be filed of record prior to final plat approval in order to ensure that there is an entity in place for long-term maintenance of these improvements (also see Section 3.1c.10. (e)). Said documents must, at a minimum, include provisions which allow the City to take over the maintenance of common property (including private recreation facilities, etc.) using association funds, if such action becomes necessary due to nonperformance or inaction by the association or if the association goes defunct.
Provisions shall also be included which would, in the latter instance, convey ownership of the common property (if any) to the City, and which would allow the City to remove any improvements/amenities from the common areas and sell any buildable land area (as residential lots) to recoup the City's expenses for maintenance and/or demolition of the improvements. Any monies that remain after the City has recovered all of its expenses shall be retained for future maintenance/upgrading of the streets, common areas (if any remain), screening walls, or other improvements within the subdivision. These provisions are not intended to allow the City to profit in any way from taking over the association's responsibilities/funds – they are only intended to allow the City to recoup its actual incurred expenses such that the general public (i.e., the taxpayers of the City) does not have to bear these costs.

b. **Membership.** A property/homeowners association shall be an incorporated non-profit organization operating under recorded land agreements through which:

1. Each lot owner within the described land area is automatically a member (i.e., membership in the association is mandatory); and
2. Each lot is automatically subject to a charge for a proportionate share of the expenses for the property/homeowners association's activities, such as maintenance of common open spaces or the provision and upkeep of common recreational facilities.

c. **Legal Requirements.** In order to assure the establishment of a proper property/homeowners association, including its financing, and the rights and responsibilities of the property/homeowners in relation to the use, management and ownership of common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:

1. Legally create an automatic membership, non-profit property/homeowners association;
2. Place title to the common property in the property/homeowners association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;
3. Appropriately limit the uses of the common property;
4. Give each lot owner the right to the use and enjoyment of the common property;
5. Place responsibility for operation and maintenance of the common property in the property/homeowners association;
6. Place an association charge on each lot in a manner which will both assure sufficient association funds and which will provide adequate safeguards for the lot owners against undesirable high charges;
7. Give each lot owner voting rights in the association; and
8. Must identify land area within the association's jurisdiction including but not limited to the following:
   (a) Property to be transferred to public agencies;
   (b) The individual residential lots;
   (c) The common properties to be transferred by the developer to the property/homeowners association; and
   (d) Other parcels.
9. Any governmental authority or agency, including, but not limited to, the City and the County, their agents, and employees, shall have the right of immediate access to the common elements at all times if necessary for the preservation of public health, safety and welfare. Should the property/homeowners association fail to maintain
the common elements to City specifications for an unreasonable time, not to exceed ninety (90) days after written request to do so, and then the City shall have the same right, power and authority to enforce the association’s rules and to levy assessments necessary to maintain the common elements. The City may elect to exercise the rights and powers of the property/homeowners association or its Board, or to take any action required and levy any assessment that the property/homeowners association might have taken, either in the name of the property/homeowners association or otherwise, to cover the cost of maintenance (or the possible demolition, if such becomes necessary to preserve public safety or to ease maintenance burden) of any common elements.

d. **Protective Covenants.** Protective covenants shall be developed which, among other things, shall make the property/homeowners association responsible for:

1. The maintenance and operation of all common property;
2. The enforcement of all other covenants;
3. The administration of architectural controls (optional); and
4. Certain specified exterior maintenance of exterior improvements of individual properties (optional).

e. The association may not be dissolved without the prior written consent of the City Council.

f. No portion of the association documents pertaining to the maintenance of common areas/property, and assessments therefore, may be amended without the written consent of the City Council.

**Section 4.4: Park Land & Public Facility Dedication**

4.4 a. **Areas for Public Use.**

1. The subdivider shall give consideration to suitable sites for parks, playgrounds and other areas for public use so as to conform with the recommendations of the Comprehensive Plan. Any provision for parks and public open space areas shall be indicated on the preliminary and final plat.

2. No individual, partnership, firm, or corporation shall deepen, widen, fill, reroute, or change the course or location of any existing ditch, channel, stream, or drainageway, without first obtaining written permission of the City and/or other agency having jurisdiction.

b. **Park Land Dedication.**

1. Any person, firm, or corporation offering a preliminary or final plat for development of any area zoned and to be used for single family, duplex, or multi-family residential purposes within the City shall include on such preliminary or final plat dedication to the City of Forney of land for public park purposes, calculated at the rate of not less than two (2) acres of park land per 100 ultimate dwelling units of such residential subdivision.

The location and size of public parks within the City shall be determined in all instances by the City Council of the City of Forney. That determination shall be based upon existing circumstances at the time, and upon recommendation from the Park Board, and in accordance with the Parks, Recreation and Open Space Plan adopted by the City.

2. The preliminary and final subdivision plat shall clearly show the area proposed to be dedicated as park land under the provisions of this section. The Planning and Zoning Commission shall determine the numbers of persons per unit based upon data compiled by the City of Forney from time to time in the update of its
Comprehensive Plan, which shall be reviewed and adjusted by the City Council as necessary to reflect current figures.

The developer has the duty to submit with the subdivision plat for a multi-family residential development information concerning the numbers of units, and should he fail to do so, the Planning and Zoning Commission shall assume the highest density allowed in such multi-family residential district.

3. In instances where the dedication of park land is unacceptable to the City Council, the developer shall deposit money in lieu of the dedication of land into a “park dedication fund” to be established and maintained by the City. The deposit of money by the developer shall be in the amount of $1,200 per single family dwelling unit and $350 per multi-family dwelling unit. All dwelling units other than single family detached units shall be considered multi-family dwelling units for purposes of this subsection. Such payments will be applied to all subdivisions for which a preliminary plat is filed and approved after the date of the adoption of this section (Adopted May 17, 2005).

4. The park dedication fund will be administered by the Park Board to best benefit the development, provided that the establishment of a park shall be within the discretion of the City Council. The money paid by the developer will be expended on such park site or sites within eight (8) years from the date of final plat approval. All sums deposited to the fund shall be accounted for by the City of Forney and expended for such purposes as acquisition of land, construction of improvements, and purchase of equipment for the site directly related to the subdivision depositing the funds. If such funds are not so expended within eight (8) years of final plat approval, the owner shall be entitled to a refund of such funds, less any amounts expended for such purposes.

5. The dedicated land required hereby shall be well-drained, level, and suitable for open play. All park land offered for dedication under this section shall meet the requirements for location outlined in the Comprehensive Plan. Areas of unusual topography or slope, which render the site unusable, are not acceptable. Drainage areas may be accepted if the recommended channel improvements, walkways, landscaping, and irrigation systems are constructed in accordance with City standards.
V. IMPROVEMENTS REQUIRED PRIOR TO ACCEPTANCE OF THE SUBDIVISION BY THE CITY

Section 5.1: Improvements

5.1  a. The requirements of the Subdivision Ordinance as set forth below are designed and intended to ensure that, for all subdivisions of land within the scope of the Subdivision Ordinance, all improvements as required herein are installed properly and:
   1. The City can provide for the orderly and economical extension of public facilities and services;
   2. All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
   3. All required improvements are constructed in accordance with City standards.

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 facilities, wastewater facilities, drainage facilities, electricity and street facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or off-site. This policy may be defined further and supplemented by other ordinances adopted by the City. Wherever the subject property abuts adjoining undeveloped land and/or wherever required by the City to serve the public good, utilities shall be extended to adjacent property lines to allow connection of these utilities by adjacent property owners when such property is platted.

c. The public improvements required by the City of Forney for the acceptance of the subdivision by the City shall include, but are not limited to, the following:
   1. Water and wastewater facilities;
   2. Drainage facilities;
   3. Streets;
   4. Street lights;
   5. Street signs;
   6. Sidewalks;
   7. Traffic control devices required as part of the project; and
   8. Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.

d. All aspects of the design and implementation of public improvements shall comply with the City’s current design standards and any other applicable City codes and ordinances, including preparation and submittal of construction plans and construction inspection. The construction of all of the improvements required in this Ordinance shall conform to the latest edition of the City’s EDS, as may be amended.

e. Changes or Amendments to the EDS and Other Construction/Design Documents. The Engineering Design Standards (EDS) will, from time to time, require revisions and updates to allow for changing construction technology. When changes are required, the EDS (i.e., Appendix A) may be amended by separate ordinance. It is the developer’s responsibility to obtain a copy of, and be familiar with, the City’s latest EDS.
Section 5.2: Monuments

5.2 In all subdivisions and additions, monuments shall be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than one-half inch (½") in diameter and eighteen inches (18") deep, and set flush with the top of the ground. Lot corner monuments shall be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than one-half inch (½") and eighteen inches (18") deep, and set flush with the top of the ground. In addition, curve point markers shall be established of the same specifications as lot corners. Each block corner monument shall include a cap with the surveyor’s name and registration number attached to it. All block corners shall be installed prior to the final inspection of the subdivision by the City. Lot corners shall be installed prior to issuance of a building permit. In addition, refer to Section 1.8 of the Engineering Design Standards regarding permanent monuments and required coordinate system.

Section 5.3: Street Lights

5.3 a. Before final acceptance of streets, alleys, sewers and other utilities, street light locations and installations shall be coordinated by the developer with the power company and the City of Forney. It shall be the subdivider’s responsibility to install street lights (per the City of Forney’s standard street light, where applicable) with metal poles (or approved similar material) at street intersections and at a maximum distance of four hundred feet (400’) apart, except where curb grades or terrain requires additional lighting, and at the terminus of cul-de-sacs.

b. Street lighting shall be installed to provide an average of 0.4 foot-candle per square foot on the roadway between curbs. The lowest intensity at any point shall not be less than 0.1 foot-candle per square foot. Street lighting materials shall be approved by the City Manager (or designee). Any costs associated with upgrading street lighting fixtures shall be borne by the developer/property owner.

Section 5.4: Street Names and Signs

5.4 a. Street names must be submitted to the City for review and approval in accordance with the City’s guidelines for the naming of streets. Proposed street names shall be submitted for review along with (and as a part of) the preliminary plat application, and shall become fixed at the time of approval of the preliminary plat. On the final plat, street names shall not be changed from those that were approved on the preliminary plat unless special circumstances have caused the major realignment of streets or a proposed street name(s) is discovered to have already been used elsewhere in the City (or some other similar eventuality). If additional street names are needed for the final plat, then they must be submitted for City staff review and approval along with the final plat application. A fee may be established by the City for the changing of street names after approval of the preliminary plat.

b. Surnames of people or the names of corporations or businesses shall not be used as street names, unless approved by the City Council. The City will maintain a list of existing street names (and “reserved” street names that have been approved on a preliminary plat), and will update the list as new streets are platted.

c. New street names shall not duplicate existing street names either literally or in a subtle manner (e.g., Smith Street vs. Smythe Street; Oak Drive vs. Oak Place vs. Oak Court vs. Oak Circle), shall not be so similar as to cause confusion between names (e.g., Lakeside Drive vs. Lake Side Drive vs. Lake Siding Drive), and shall not sound like existing street names when spoken (e.g., Oak Drive vs. Doak Drive; Lantern Way vs. Land Tern Way).

d. New streets which extend existing streets shall bear the names of the existing streets. Streets crossing thoroughfares or other roadways shall bear the same name on both
sides of the thoroughfare, wherever practical, unless otherwise approved by City Council.

e. The property owner shall provide payment for street name signs for the development. The cost of each street name sign installation shall include the cost of the sign assembly, pole and the time for installation. Payment by the property owner will be due prior to approval of the engineering plans by the City Engineer.

f. Street name signs shall be installed in accordance with the City’s guidelines before issuance of a building permit for any structure on the streets approved within the subdivision.

Section 5.5: Street and Alley Improvements

5.5  

a. All on-site (i.e., internal) streets and alleys shall be constructed by the developer at the developer’s expense, unless otherwise approved by this Ordinance. If the subdivision is adjacent to a planned/future or substandard arterial or collector street (as shown on the City’s Thoroughfare Plan) and derives access (either direct or indirect) from said roadway, then the developer shall be required to design and construct a reasonable portion of the roadway (as well as any required median openings/left turn lanes needed to serve his subdivision) (see Section 5.9). The City Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction/improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

b. All streets and alleys shall be constructed using reinforced concrete, unless otherwise approved by the City Council, and per the specifications in the City’s EDS.

c. The minimum street and alley curb and gutter standards for which the construction shall be made by the developer are shown in the EDS.

d. In addition to the above mentioned minimum standards, barrier-free ramps for physically challenged persons shall be constructed at all street corners, driveway approaches, appropriate mid-block crosswalks, and in locations where accessible parking spaces are provided. All barrier-free ramps and other accessibility considerations shall comply with Section 228 of the Highway Safety Act, as currently amended, and with the Americans With Disabilities Act (ADA), as amended.

e. All signs and barricades shall be in conformity with the EDS, with ADA standards, and/or with specifications for uniform traffic control devices, as adopted by the Texas Department of Transportation and/or the Texas Department of Public Safety.

f. Approval is required prior to the installation of any driveway connecting to a public street. The City Manager (or his/her designee) shall approve all driveway cuts. The minimum distance (as measured from edge/curb to edge/curb of driveways, and not from the centerlines of the driveways) between driveway openings for multi-family and nonresidential developments shall be one hundred and fifty feet (150’) on a collector street, and two hundred feet (200’) on an arterial roadway, unless otherwise approved by City Council. Driveways shall not be within the transition or stacking portion of a right turn lane, and shall be no closer than one hundred feet (100’) to an intersecting thoroughfare/arterial street (as measured from the intersecting street’s end of curb radius), and no closer than fifty feet (50’) to an intersecting residential or collector street.

Section 5.6: Retaining Wall Requirements, Construction Regulations, and Design Criteria

5.6  

a. Retaining Wall Requirements. When property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5’) and the slope exceeds one unit vertical in two units horizontal, a retaining wall shall be required at the locations specified herein prior to the acceptance of the subdivision:
1. **Location A.** The grade change roughly follows a side or rear lot line.

2. **Location B.** The grade change is adjacent to a proposed building site boundary.

3. **Location C.** The grade change is adjacent to a water course or drainage easement.

b. **Retaining Wall Design and Construction.** All retaining wall design and construction shall be in compliance with the provisions of the Building Code and/or the EDS of the City of Forney, and shall be approved by the City Manager (or his/her designee).

c. **Retaining Wall Maintenance.** Retaining walls shall be maintained by the owner of the property where such retaining wall is located.

d. Retaining walls shall not be constructed parallel to and within any portion of a utility easement.

**Section 5.7: Screening and Landscaping Construction Regulations, Requirements and Design Criteria**

5.7 **a. Screening.**

1. Where subdivisions are platted so that the rear or side yards of single-family or two-family residential lots are adjacent to an arterial thoroughfare (greater than sixty feet (60') in right-of-way width on the Thoroughfare Plan); a four (4) lane collector street; are separated from a thoroughfare by an alley; or back up to a collector or residential street, the developer shall provide, at his sole expense, screening according to the following alternatives and standards. All screening shall be adjacent to the right-of-way or property line and fully located on the private lot(s), including columns and decorative features. All forms of screening shall conform to the requirements of City ordinances and/or policies that govern sight distance for traffic safety.

2. **Screening Alternatives.** Screening shall be provided in accordance with, and shall be constructed to, standards and criteria as set forth in the City's EDS and/or other related City code(s)/policy(s). The following shall be accepted methods and materials for required screening and landscaping.

   A. **Screening Height**

      Screening height shall be a minimum of six feet (6') above the grade of abutting uses unless otherwise specified.

   B. **Screening Width**

      Required screening shall be contained within a minimum five feet (5') wide screening easement. Any required landscaping shall be in addition to the required screening easement above.

   C. **Masonry Screen Walls**

      1. When walls are used for screening both sides shall be composed of hard fired brick and/or stone as defined in Section 42 of the Comprehensive Zoning Ordinance.

      2. Masonry screen walls shall have no greater than ten percent (10%) of their surface area composed of openings of non-masonry materials, such as ornamental or wrought iron, steel or anodized aluminum tubing, pickets or filigree panels. Wood products and chain link fencing are prohibited as components of masonry walls. No opening, including spacing between non-masonry elements, shall allow a sphere six inches (6") or greater in diameter to pass through it.

      3. Masonry screen walls shall have a minimum five feet (5') landscape buffer strip on the non-residential property side to allow for required
landscaping in connection with all such screen walls.

4. Landscaping adjacent to screen walls shall consist of a minimum of one (1) small tree at least eight feet (8') in height for each ten (10) linear feet, or one (1) large tree at least three inches (3") in caliper evenly distributed for thirty feet (30'), placed no closer than twenty-five feet (25') on center. See Section 50 of the Comprehensive Zoning Ordinance for the Approved Plant List.

5. Where a masonry screen wall faces a street right-of-way, a continuous reinforced concrete mow edge possessing a minimum width of twelve inches (12") shall be installed on the side adjacent to the street right-of-way. Mow edges shall have a minimum thickness of four inches (4") and shall be reinforced with a minimum two (2) steel reinforcing bars three-eighths inch (3/8") in diameter, running continuously through the mow edge.

D. Ornamental Fences:

1. Shall be either ornamental or wrought iron possessing a minimum continuous height of six feet (6').

2. Shall consist of large evergreen shrubs/small trees as listed in the Approved Plant List which will grow to or exceed the minimum height specified in this section. A minimum five feet (5') landscape buffer shall be provided for the planting of such shrubs/trees.

E. Earthen Berms:

1. Shall have a maximum side slope of 3:1 and shall be entirely vegetated with turf or groundcover with a minimum height of six feet (6').

2. Shall be entirely vegetated with lawn grass or groundcover with two (2) years of the date of planting.

F. Allowed combinations:

1. A combination of evergreen shrubs from the Approved Plant List, at least thirty-six inches (36") in height and spaced triangularly no greater than forty-eight inches (48") on center, and earthen berms may be used to accomplish the required screening height. The berms shall have an average height of three feet (3').

2. A combination of masonry walls with required landscaping and earthen berms may be used to accomplish the required screening height.

G. Where masonry walls or ornamental fences are employed to screen residential subdivisions, the developer shall ensure the perpetual maintenance of such screening walls through one of the following methods:

1. Where maintenance of common areas is required in addition to maintenance of required screening, the developer shall form a homeowner's association responsible for maintenance of the screening. The homeowner's association must be approved by the City Attorney and the City Manager. The homeowner's association shall include in its bylaws a provision allowing the City to assess the homeowner's association for maintenance in the event the homeowner's association defaults in its maintenance obligations. A maintenance bond shall be provided by the developer issued to the homeowner's association for a period of two (2) years. The maintenance bond shall be in the amount of fifty percent (50%) of the total cost of the initial construction of the screening. The establishment of the homeowner's association and provision of the maintenance bond shall occur prior to acceptance of the subdivision by the City.

2. Where no other common areas exist, the developer shall have the
following maintenance options for masonry walls:

Option 1: Form a homeowner's association to maintain the required screening in accordance with the provisions above.

Option 2: The City shall maintain the required screening if a maintenance bond is provided by the developer issued to the City for a period of two (2) years. The maintenance bond shall be in the amount of fifty percent (50%) of the total cost of initial construction of the screening. The developer shall also pay twenty (20) percent of the total cost of initial construction to be placed in the City screening maintenance account. Both the bond and the assessment shall be paid prior to acceptance of the subdivision by the City.

H. Where earthen berms are employed to screen residential subdivisions, the developer shall ensure the perpetual maintenance of such earthen berms by forming a homeowner's association in accordance with the provisions of above.

I. If residential development occurs in a non-residential district where such development is permitted but is not expected to be the dominant land use, screening shall be provided by the residential developer, but not as a requirement of the adjoining on-residential use. Such screening shall be installed in accordance with the provisions above.

3. Deleted.

4. The screening wall shall be installed prior to the final acceptance of the subdivision. Landscape materials may be installed after the subdivision is accepted, upon approval of the City Manager (or designee), but in no case later than six (6) months following acceptance of the subdivision.

5. All plants (e.g., trees, shrubs, ground cover) shall be living and in sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that are customary for their container/ball size (as per the latest edition of the “American Standard for Nursery Stock”, by the American Association of Nurserymen, as may be amended).

6. All masonry, steel and/or aluminum screening wall/fence plans and details must be designed and sealed by a registered professional engineer, and must be approved by the City Manager (or his/her designee).

7. Required wall heights, including spans between columns, shall be from at least six feet (6') and no more than eight feet (8'). Decorative columns, pilasters, stone caps, and other features may exceed the maximum eight-foot (8') height by up to eighteen inches (i.e., total maximum height of nine and one-half feet (9.5')), provided that such taller elements comprise no more than ten percent (10%) of the total wall length (in elevation view).

8. Screening fences/walls shall not be constructed parallel to and within any portion of a utility easement.

b. **Entryway Features** (neighborhood identification).

1. Subdivisions in excess of ten (10) platted lots may provide a low maintenance landscaped entryway feature at access points from streets and thoroughfares into the subdivision. The entryway feature shall be placed on private property and within an easement identified for such use (limited portions of the feature/landscaping may be placed within the right-of-way), and shall observe all sight visibility requirements. Most of the feature/landscaping shall be located on private property so that long-term maintenance responsibility will be borne by the property owner or an approved homeowners association (see Section 4.3).
2. **Design Requirements.** The entryway feature shall include low maintenance, living landscaped materials as approved by the City. The design of the entryway feature shall also include an automatic underground irrigation system, and may also include subdivision identification (i.e., signage located on the wall). All plants shall be living and in a sound, healthy, vigorous and growing condition, and they shall be of a size, fullness and height that is customary for their container/ball size (as per the latest edition of the “American Standard for Nursery Stock”, by the American Association of Nurserymen, as may be amended). Any walls or structures used in the entryway feature must conform to the City’s regulations pertaining to maximum height within the front yard of residential lots (see the Zoning Ordinance) wherever the adjacent lot sides onto the arterial street and the wall will be located within the front yard setback area.

3. The design of the entryway shall be in accordance with design policies as provided by the City Manager (or designee). The design of the entry shall be reflected on the engineering plans submitted with the final plat, and shall be approved by the City in conjunction with approval of the construction plans.

4. The maintenance of the entryway shall be the responsibility of the developer for a period of at least two (2) years or until building permits have been issued for eighty percent (80%) of the lots in the subdivision, whichever date is later. Following that period of time, maintenance responsibility shall be borne by the private property owner(s) upon whose lot(s) the entryway feature is located, or by an approved homeowners association (see Section 4.3). If, at some point in time, the maintenance responsibility shifts to the City, the City shall have the right to upgrade, reduce or eliminate entirely, at its sole option, the landscaping and other amenities in order to simplify and/or minimize the amount of time and effort that maintenance of the entryway will require.

**Section 5.8: Water and Sewer Requirements**

5.8 a. The installation of all water and wastewater lines shall be in conformance with the EDS.

b. No final plat shall be approved for any subdivision within the City or its extraterritorial jurisdiction until the subdivider has made adequate provision for a water system and a sanitary sewer system of sufficient capacity to adequately provide service to all tracts and lots within the area to be subdivided. The design and construction of the water system and of the sanitary sewer system to serve the subdivision shall be in conformance with the City’s master plans for water and wastewater facilities and with the EDS, and shall be approved by the City Manager (or his/her designee).

c. Water system with mains of sufficient size and having a sufficient number of outlets to furnish adequate domestic water supply and to furnish fire protection to all lots shall be provided. Water lines shall extend to the property line (in order to allow future connections into adjacent undeveloped property), and a box for the water meter(s) for each lot shall be installed either in the right-of-way or immediately adjacent to the right-of-way in an easement.

d. Services for utilities shall be made available to the property line of each lot in such a manner as will minimize the necessity for disturbing the street pavement and drainage structure when connections are made.

e. Fire hydrants shall be installed in residential areas every five hundred feet (500’) of hose laying distance, and in nonresidential areas every three hundred feet (300’) of hose laying distance. The Fire Chief shall have the authority to approve the locations and placement of all fire hydrants (and fire lanes), and may, at his discretion, modify fire hydrant spacing based upon special design/distance circumstances.

**Section 5.9: Improvement of Adjacent (Perimeter) Streets and Utilities**
5.9  

a. When a proposed subdivision, whether residential or nonresidential, abuts on one or both sides of an existing substandard street (or on a planned/future road as shown on the Thoroughfare Plan), being substandard according to the then existing current Thoroughfare Plan, the developer shall be required to improve the existing on-site facility as that term is defined herein, including appurtenant sidewalks, screening/landscaping, storm sewers and other utilities as defined in Section 1.16, to bring the same to City standards, or to replace it with a standard City street as determined by the traffic impact analysis (if required; see Section 3.1), at no cost to the City.

b. The developer’s share of a perimeter road shall be eighteen and one-half feet (18.5’) of pavement (including curb), which is approximately equivalent to half of a collector street width (two traffic lanes), along the entire front footage of the subdivision (unless the traffic impact analysis, if required, indicates that some other pavement width is needed to achieve/maintain an acceptable level of service on the roadway). If the subdivision is to be located on both sides of the roadway, eighteen and one-half feet (18.5’) of pavement will be constructed by the developer on each side of the road along the entire front footage of the subdivision on each respective side of the road (unless the traffic impact analysis determines otherwise). Design and construction of the roadway shall be in accordance with the City’s Thoroughfare Plan (right-of-way width and general location), EDS, and with any other applicable City codes and ordinances. Depending upon the specific roadway in question (and upon the traffic impact analysis results), any oversizing above the eighteen and one-half foot (18.5’) width shall be borne by the City, the County, the State or by some other entity. The City Council may, at its option, accept escrow funds in lieu of immediate roadway construction if the subdivision derives principal access from another improved roadway and if delaying construction/improvement of the road will not harm or otherwise inconvenience neighboring property owners or the general public.

c. Streets which dead-end at power lines or similar rights-of-way or easements, and which are intended for future extension across these rights-of-way or easements, shall be constructed in the right-of-way or easement for half the distance across the right-of-way or easement, and shall be further restricted as set forth in Section 3.1. As with any other dead-end street, a note shall be placed on the final plat clearly labeling the dead-end streets that will, at some point, be extended across the power line easement (or right-of-way), and signage shall be placed at the end of the constructed street stub (on the barricade) also stating that the street will be extended in the future (signage size and lettering shall be large enough to be legible by a person with normal vision at a distance of twenty feet).

Section 5.10: Storm Drainage

5.10  

a. An adequate storm sewer system consisting of inlets, pipes and other underground structures with approved outlets shall be constructed where runoff of storm water and the prevention of erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions and/or inadvertent storm water retention (i.e., standing or pooling water), as established by the City, will not be considered for development until adequate drainage has been provided.

b. The criteria for use in designing storm sewers, culverts, bridges, drainage channels, and drainage facilities shall conform to the City of Forney’s drainage criteria in the EDS. In no case shall drainage areas be diverted artificially to adjacent properties or across roadways. Storm water drainage from one residential lot onto another shall not be allowed unless such does not pose any harm or inconvenience to the downstream property owner(s) and unless specifically approved by the City Manager (or his/her designee).

c. The developer shall ensure that all drainage improvements within public easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The developer shall be responsible for removing any significant build-up of sediment
and/or trash from drainage improvements, with the exception of backlot and sidelot drainage swales, at the eleventh month of the second year for the required two-year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.

VI. REQUIREMENTS FOR ACCEPTANCE OF SUBDIVISIONS BY THE CITY OF FORNEY

Section 6.1: Withholding City Services and Improvements Until Acceptance

6.1 a. The City hereby defines its policy to be that the City will withhold all City services and improvements of whatsoever nature, including the maintenance of streets, the furnishing of sewage facilities, water service, other utility service, and all other City services from all additions until all of the street, utility, storm drainage and other public improvements, as well as lot improvements (e.g., grading and installation of improvements required for proper lot drainage and prevention of soil erosion, retaining walls, etc.) on the individual residential lots, are properly constructed according to the approved engineering plans and to City standards, and until such public improvements are dedicated to and accepted by the City.

Section 6.2: Guarantee of Public Improvements

6.2 a. Subdivider’s Guarantee. Before approving the final plat of a subdivision located all or partially within the City and/or the City's extraterritorial jurisdiction, the City Council must be satisfied that all required public improvements shall have been constructed in accordance with the approved construction plans and with the requirements of this Ordinance.

b. Improvement Agreement and Guarantee. The City Manager may waive the requirement that the applicant complete and dedicate all public improvements prior to filing of the final plat, and may permit the property owner to enter into an improvement agreement by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the final plat is filed. The City Council may also require the property owner to complete and/or dedicate some of the required public improvements prior to filing of the final plat, and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and the City. Nothing within this section shall nullify the City's obligation to participate in the construction of oversized facilities, pursuant to the City’s cost participation policies on oversized improvements.

c. Improvement Agreement Required for Oversize Reimbursement. The City shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs. The City Council shall authorize the approval of such agreement as meeting the requirements of the City, and the City shall not withhold approval as a means of avoiding compensation due under the terms of this Ordinance. The City Manager (or designee) is authorized to sign an improvement agreement on behalf of the City.

d. Security. Whenever the City permits a property owner to enter into an improvement agreement, it shall require the owner to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a letter of credit or other security acceptable to the City Manager and the City Attorney, as security for the promises contained in the improvement agreement. In addition to all other security, for completion of those public improvements where the City participates in the cost, the owner shall provide a
performance bond from the contractor, with the City as a co-obligee. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the City Manager (or designee) and the City Attorney.

e. Letter of Credit. If the City Manager authorizes the property owner to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

1. Be irrevocable;
2. Be for a term sufficient to cover the completion, maintenance and warranty periods, but in no event less than two (2) years; and
3. Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City’s right to draw funds under the letter of credit.

f. As portions of the public improvements are completed in accordance with the EDS and the approved engineering plans, the developer may make application to the City Manager (or designee) to reduce the amount of the original letter of credit. If the City Manager (or designee) is satisfied that such portion of the improvements has been completed in accordance with City standards, he may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that he deems appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.

g. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the security to 10% of the original amount of the security if the property owner is not in breach of the improvement agreement. The remaining security shall be security for the owner’s covenant to maintain the required public improvements and to warrant that the improvements are free from defects for two (2) years thereafter. If the required security for maintenance and warranty is otherwise provided by the contractors or by others, the City will release the entire amount of the developer’s security.

Section 6.3: Temporary Improvements

6.3 The property owner shall build and pay for all costs of temporary improvements required by the City, and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the owner shall file with the City a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

Section 6.4: Government Units

6.4 Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agents authorized to act in their behalf, agreeing to comply with the provisions of this Section.

Section 6.5: Failure to Complete Improvements

6.5 a. For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the City, the land study and preliminary plat approvals shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted, and the required public improvements have not been installed within the terms of the agreement, the City may:
1. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
2. Suspend final plat approval/filing until the public improvements are completed, and may record a document to that effect for the purpose of public notice;
3. Obtain funds under the security and complete the public improvements itself or through a third party;
4. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the property;
5. Exercise any other rights available under the law.

Section 6.6: Acceptance of Dedication Offers
6. Acceptance of formal offers for the dedication of streets, public areas, easements and/or parks shall be by authorization of the City Manager (or designee). The approval by the City of any type of plat shall not, in and of itself, be deemed to constitute or imply the acceptance by the City of any street, public area, easement or park shown on the plat. The City may require the plat to be endorsed with appropriate notes to this effect.

Section 6.7: Maintenance and Guarantee of Public Improvements
6.7 The owner shall maintain all required public improvements for a period of two (2) years following acceptance of the subdivision by the City, and shall also provide a warranty that all public improvements will be free from defects for a period of two (2) years following such acceptance by the City.

Section 6.8: Construction Procedures
6.8 a. A permit is required from the City Manager (or his/her designee) prior to beginning any work in the City or its extraterritorial jurisdiction which affects erosion control, storm drainage, vegetation or tree removal, or a flood plain.

b. Preconstruction Conference. The City Manager (or his/her designee) may require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a grading permit and before any filling, excavation, clearing and/or removal of vegetation and trees that are larger than eight inch (8") caliper.

c. Conditions Prior to Authorization. Prior to authorizing release of a grading permit, the City Manager (or his/her designee) shall be satisfied that the following conditions have been met:
   1. The final plat has been approved by the Planning and Zoning Commission and by City Council (and any conditions of such approval have been satisfied);
   2. All required construction documents are completed and approved by the City Engineer;
   3. All necessary off-site easements and/or dedications required for City-maintained facilities and not shown on the plat must be conveyed solely to the City (i.e., by separate instrument), with the proper signatures affixed. The original of the documents and the appropriate filing fees (per Appendix B and the City's submission guidelines, as either one may be amended from time to time) shall be returned to the City Manager (or his/her designee) prior to approval and release of the engineering plans;
4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer (at least one set of these plans shall remain on the job site at all times);

5. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Manager (or his/her designee); and

6. All applicable fees must be paid to the City.

Section 6.9: Inspection of Public Improvements

6.9 a. General Procedure. Construction inspection shall be supervised by the City Manager (or his/her designee). Construction shall be in accordance with the approved engineering plans and the EDS of the City of Forney (and other applicable codes and ordinances). Any change in design that is required during construction should be made by the registered professional engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans, and if those revisions are noted on the plans or documents. All revisions shall be approved by the City Manager (or his/her designee). If the City Manager (or his/her designee) finds, upon inspection, that any of the required public improvements have not been constructed in accordance with the City's standards and EDS, then the property owner shall be responsible for completing and/or correcting the deficiencies such that they are brought into conformance with the applicable standards.

b. Certificate of Satisfactory Completion. The City will not accept dedication of required public improvements until the applicant's engineer or surveyor has certified to the City Manager (or his/her designee), through submission of detailed sealed "as-built", or record, drawings of the property which indicate all public improvements and their locations, dimensions, materials and other information required by the City Manager (or his/her designee), and until all required public improvements have been completed. The "as-builts" shall also include a complete set of sealed record drawings of the paving, drainage, water, sanitary sewer and/or other public improvements, showing that the layout of the lines and grades of all public improvements are in accordance with construction plans for the plat, and showing all changes made in the plans during construction, and containing on each sheet an “as-built” stamp bearing the signature/Seal of the registered professional engineer and the date. One reproducible drawing of the utility plan sheets containing the as-built information shall also be submitted. The engineer or surveyor shall also furnish the City with a copy of the final plat and the engineering plans, if prepared on a CADD system, in such a digital format (i.e., on disk) that is compatible with the City's CADD system. When such requirements have been met, the City Manager (or his/her designee) shall thereafter make a recommendation to the City Council to accept the public improvements for dedication in accordance with the established procedure.

Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City Council may, at its option, accept dedication of a portion of the required public improvements if the remaining public improvements are not immediately required for health and safety reasons, and if the owner has posted a performance bond, letter of credit or cash bond in the amount of one hundred percent (100%) of the estimated cost of those remaining improvements for a length of time to be determined by the City Council. If the remaining public improvements are greater than $10,000.00 and are not completed within the determined length of time, the City will impose a ten percent (10%) penalty of the performance bond, letter of credit, or cash bond. The obligation to complete the improvements remains with the developer, and all future building permits or certificates of occupancy will be withheld until the improvements are complete. If the remaining public improvements are less than $10,000.00, the developer shall pay the actual dollar
amount. The length of time may be extended due to inclement weather or unforeseen delays by mutual agreement between the developer and the City.

Upon acceptance of the required public improvements, the City Manager (or his/her designee) shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

Section 6.10: Deferral of Required Improvements

6.10 a. The City Council may, upon petition of the property owner and favorable recommendation of the City Manager (or his/her designee), defer at the time of plat approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the immediate interests of the public health, safety and general welfare.

b. Whenever a petition to defer the construction of any public improvements required under this Ordinance is granted by the City Council, the property owner shall deposit in escrow his share of the costs (in accordance with City participation and oversizing policies) of the future public improvements with the City prior to approval of the plat, or the property owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the City.

Section 6.11: Issuance of Building Permits and Certificates of Occupancy

6.11 a. No building permit shall be issued for a lot or building site unless the lot or site has been officially recorded by a final plat approved by the City of Forney, and unless all public improvements, as required by this Ordinance for final plat approval, have been completed, except as permitted below:

1. Building permits may be issued for a non-residential or multi-family (i.e., apartments) development provided that a final plat has been approved by the City, and construction plans have been released by the City Manager (or his/her designee). However, building construction will not be allowed to surpass the construction of fire protection improvements (i.e., the building shall not proceed above the slab level until all required fire lanes have been completed, and until all water lines serving fire hydrants have been completed, and inspected/tested by the City).

2. The Building Official may release some residential building permits for a portion of a subdivision (i.e., for not more than 10% of the new residential lots), provided that a final plat and the construction plans have been approved by the City, and all public improvements have been completed for that portion of the development including, but not limited to, those required for fire and emergency protection (i.e., streets including at least two points of access, alleys, water lines serving fire hydrants, emergency access points, etc.). Notwithstanding, no lot may be sold nor title conveyed until the final plat has been approved by the City and has been recorded at the County.

b. No certificate of occupancy shall be issued for a building or the use of property unless all subdivision improvements have been completed and a final plat has been approved by the City and recorded at the County. Notwithstanding the above, the City Manager (or his/her designee), Building Official and the City Engineer may jointly authorize the conditional occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the City for the completion of all remaining public improvements, and provided that the structure is safely habitable in accordance with the City’s Building Codes.
VII.  FILING FEES & PLAT SUBMISSION REQUIREMENTS

Section 7.1: Schedule of Fees and Submission Requirements

7.1 Fees and charges (as well as other submission requirements) for the filing of applications for the approval of land studies, any type of plat, plat vacations shall be as shown in Appendix B, and may be amended from time to time. It is the developer’s responsibility to obtain and comply with the City’s current fee schedule and submission requirements.

Such fees and charges shall be imposed and collected on all applications for approval of a land study, any type of plat, and a plat vacation, regardless of the action taken by the City Planning and Zoning Commission and City Council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical, engineering and inspection services necessary to properly review and investigate plats and subdivision construction. Should a land study or plat application be denied by the City (i.e., Planning and Zoning Commission and/or City Council), then that application ceases “pending” status -- any re-application for land study or plat approval for that property must be accompanied by a new filing fee.

All required fees (i.e., applicable fees, taxes, street signs, etc.), unless specifically stated otherwise herein, shall be paid as required in other sections of this Ordinance. Inspection fees may be paid at the time the actual inspection is made of the project.
VIII. ADOPTION

Section 8.1: Adoption of Ordinance

8.1 Adoption of this Ordinance shall take effect immediately from and after its passage and the publication of the caption of said Ordinance, as the law in such case provides.

Passed and adopted by the City Council of the City of Forney, Texas, this 20th day of July, 2000.

Mayor Weldon Bowen
City of Forney, Texas

ATTEST:
Odessa Moore, City Secretary
City of Forney, Texas