CHAPTER 4-6 - PLATTING AND SUBDIVISION IMPROVEMENT AND MAINTENANCE[1]

Footnotes:

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Cross reference— Platting in special flood hazard areas, Ch. 4-6; zoning. Ch. 4-10.

State Law reference— Municipal regulation of subdivisions and property development, V.T.C.A., Local Government Code § 212.001 et seq.

ARTICLE I. - IN GENERAL[2]

Footnotes:

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Editor's note— Ord. No. 7507, § 1, adopted March 3, 2015 repealed the former Art. I, §§ 4-6-1—4-6-6, and § 2 enacted a new Art. I as set out herein. The former Art. I pertained to similar subject matter and derived from Ord. No. 6505, § 1, adopted November 7, 2000.

Sec. 4-6-1. - Authority, purpose, groundwater availability certification, and enforcement.

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

(b) *Purpose.*

(1) The subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid and vital function of a municipal government. It is the City's intention, by implementing subdivision regulations, to provide a mechanism for a fair and rational procedure for developing land which promotes the health, safety, and general welfare of the municipality and the safe and orderly development of the municipality and areas within its Extraterritorial Jurisdiction.

(2) The provisions of this Chapter are intended to:

a. Promote the development and the use of land in a manner that assures an attractive and elevated quality of community in accordance with the Comprehensive Plan and the zoning regulations of the City of Amarillo;

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

c. Protect the public interest by imposing standards for the location, design, and types of streets, sidewalks, alleys, utilities, and other essential public services;

d. Assist orderly, efficient, and coordinated development within the corporate city limits and extraterritorial jurisdiction;

e. Integrate the development of various tracts of land into the existing community, and coordinate the future development of adjoining tracts;

f. Ensure the most efficient and beneficial provisions of public facilities and services for each tract being subdivided;

g. Provide for circulation of vehicular and pedestrian traffic throughout the municipality;

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

i. Ensure that each subdivision approved by the City is designed in such a way as to minimize storm water runoff from the site and to minimize flooding potential downstream from such subdivisions; and

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

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

(c) *Certification of groundwater availability required.*

(1) The plat applicant is required to certify that a tract(s) of land has adequate groundwater under the land to be subdivided (if the source of water for the subdivision is groundwater under the subdivision) for any non-exempt (see Section 4-6-7) division of land.

(2) The Plat Applicant and the Texas Licensed Professional Engineer or Texas Licensed Professional Geoscientist shall use the Texas Administrative Code Title 30 Part 1 Chapter 230 and the required form 30 TAC §230.1(c)(2) to certify that adequate groundwater is available under the land.

(3) These rules do not replace other state and federal requirements applicable to public drinking water supply systems. These rules do not replace the authority of groundwater conservation districts under Texas Water Code Chapter 36.

(d) *Enforcement.*

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

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

(3) Director of Environmental Health shall not issue a permit for the installation of a septic system upon any Lot in a Subdivision for which a Plat has not been approved and recorded in the manner prescribed in this chapter, unless the septic system will replace an existing system that has been permitted or predates existing permitting requirements.

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

(d) *Extraterritorial Jurisdiction Subdivisions.*

(1) The owner of a tract of land must have a plat of the subdivision approved if the owner divides the tract into two or more parts including an addition, lots, or streets, alleys of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys.

(2) All tracts under single ownership and described as a single tract greater than five (5) acres in size shall be exempt from the provisions of this chapter unless the subdivision includes any streets, alleys intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys.

(3) All lands subdivided or re-subdivided not otherwise exempted by part (ii) above shall be platted in accordance with the provisions of this chapter.

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

(Ord. No. 7507, § 2, 3-3-2015)

Sec. 4-6-2. - Definitions.

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

Alley: A minor way which is used primarily for installation of public Utilities, solid waste collection, and for vehicular services access to the back or the side of properties otherwise abutting on a Street.

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

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

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

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

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

Development Review Committee: Staff may include but is not limited to members from Building Safety, Engineering, Environmental Health, Fire Prevention, Parks, Planning, Public Works, and Utilities.

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

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

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

Extraterritorial Jurisdiction: The contiguous unincorporated area not incorporated in any other city within five (5) miles of the corporate limits of the City of Amarillo and other contiguous areas as allowed by law.

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

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

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

Main: A water or wastewater line designed and installed to distribute water to or collect sewage from lateral or service lines.

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

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

Parcel: Same as *Lot.*

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

Permittee: Any person to whom a permit is issued.

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

Plat: A map of a subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, easements, etc., drawn to scale; also includes minor, replat, and amending plat. Shall refer to Final Plats meeting the requirements of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subdivider: Same as Developer

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

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

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

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

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

Thoroughfare: Same as Street.

Tract: Same as *Lot.*

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

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

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

(Ord. No. 7507, § 2, 3-3-2015; Ord. No. 7721, § 1, 3-13-2018)

Sec. 4-6-3. - Fees.

(a) Fees related to the processing of applicable permits and services described in this Chapter shall be set out as follows:

TABLE NUMBER ONE

	Description	Fee	Technology Fee
(1)	Right of Way (ROW) Permit Fee	$260.00	$10.00
(2)	ROW Re-inspection Fee	$50.00	$10.00
(3)	ROW No Permit Fee (per day)	$500.00	$10.00
(4)	Flood Plain Development Permit	$200.00	$10.00
(5)	Sidewalk Wavier -Commercial	$800.00	$10.00
(6)	Sidewalk Wavier -Residential	$80.00	$10.00
(7)	Street Name Change	$660.00 + cost of sign	$10.00
(8)	Drainage Report Application Fee	$250.00	$10.00
(9)	Drainage Report Fee (Per Acre	$3.00	$10.00
(10)	Notification Supplementary Fee	$160.00	$10.00
(11)	Construction Plan Review	1% of the total cost of the project.	$10.00
(12)	Construction Application Fee	$250.00	$10.00
(13)	Multiple Location per Permit Fee	$100.00	
(14)	Subdivision Improvement Wavier	$800.00	$10.00

(b) Wireless communication facilities. For any entity that is governed by Chapter 284 of the Texas Local Government Code, such entity shall pay an annual right-of-way fee of two hundred fifty dollars ($250.00) per node per year, a Node Pole Collocation fee of twenty dollars ($20.00) per pole per year and Transport Facility (as that term is defined in Tex. Loc. Gov't Chapter 284) fee of $28 per node per month. For all other utilities, the fee shall be governed by applicable law or, for entities governed by Chapter 284 of the Texas Local Government Code, by the design manual adopted by the City Manager.

(Ord. No. 7620, § 4, 9-13-2016; Ord. No. 7688, § 5, 9-12-2017; Ord. No. 7689, § 1, 11-28-2017; Ord. No. 7761, § 4, 9-18-2018; Ord. No. 7811, § 4, 9-24-2019)

Secs. 4-6-4—4-6-5. - Reserved.

ARTICLE II. - PLATTING AND SUBDIVIDING[3]

Footnotes:
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Editor's note— Ord. No. 7507, § 3, adopted March 3, 2015, repealed the former Art. II, §§ 4-6-21—4-6-28, 4-6-41—4-6-45, 4-6-56—4-6-59, 4-6-71—4-6-79, and § 4 enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. No. 6505, § 1, adopted November 7, 2000; Ord. No. 6487, § 3, adopted September 20, 2005; Ord. No. 6882, § 3, adopted December 20, 2005.

DIVISION 1. - GENERALLY

Sec. 4-6-6. - Types of plans or plats required.

(a) *Preliminary Plan.* A Preliminary Plan shall be required when Public Improvements are necessary when developing the property.

(b) *Plats.* A Final Plat or Minor Plat must be approved prior to any non-exempt land division.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-7. - Exemptions.

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

(a) Use of existing or expanding cemeteries complying with all State and local laws and regulations;

(b) A division of land created by order of a court of competent jurisdiction;

(c) The initial creation, by Plat, of a Lot from an unplatted tract ~~which~~ that results in a single remainder tract, in which the remainder tract must be greater than five (5) acres in size; be under single ownership; front an existing, dedicated street; and require no Public Improvements; and

(d) ~~The remainder tract must be under single ownership, front an existing, dedicated street and require no Public Improvements.~~ Subdivisions of land that qualify for exemptions allowed by state law or other local agreements that do not conflict with applicable state law.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-8. - Applications and procedures.

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

(a) An application must be completed in its entirety in order to be accepted for review by the City of Amarillo. All applications shall be made on forms available from the City. To be complete, it must comply with all the procedures of this Section and any other Sections pertaining to the specific application.

(b) Required documentation for the initial application to be considered complete for each review process is listed on the application form provided by the City.

(c) A complete application must be submitted on the designated application deadline date. Application deadline dates can be obtained by contacting the City of Amarillo Planning Department.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-9. - Stages of plan and plat approval.

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

(a) Preliminary Plan approval, when required (refer to Article II, Division 2);

(b) Final Plat approval (refer to Article II, Division 4);

(c) Minor Plat approval (refer to Article II, Division 5); and

(d) Revisions to Recorded Plat approval (refer to Article II, Division 6).

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-10. - Completeness review.

(a) *Determination of Completeness.* Every required application shall be subject to a determination of completeness by the Officer responsible for processing the application.

(1) No required application shall be accepted for processing unless it is accompanied by all documents, fee, and information required by the specific application.

(2) Once the application is accepted for processing, a determination of completeness shall be made by the responsible Official no later than two (2) business days (excluding holidays or inclement weather whereby the City is closed for business) after the official filing date that the required application is submitted to the responsible Official and the applicant shall be sent notification of the determination within the same two (2) business days time frame.

a. If the required application is determined to be incomplete, the notification shall specify the documents or other information necessary to complete the application and shall state the date the application will expire (see Subsection (c), below) if the documents or other information are not provided.

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

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

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

(c) *Expiration of Application.*

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-11. - Time for decision of plan or plat.

(a) All Preliminary Plan applications, Plat applications and Construction Plan applications shall be ~~acted on~~ approved, approved with conditions, or disapproved within thirty (30) days from the Official Filing Date unless a waiver is submitted in accordance with this Section.

(b) The City may not request or require a Developer to waive a deadline or other approval procedure under this chapter.

(c) Waiver of Right to 30-day Action ("Waiver"):

(1) The Planning Director shall be the responsible Official and the initial decision-maker for a Waiver.

(2) An applicant may request in writing a Waiver in relation to the decision time for plats of thirty (30) days mandated by State law (see Texas LGC Chapter 212, Sec. 212.009).

(3) Waiver requests must be received by the Planning Director the Friday prior to the Planning and Zoning Commission meeting at which action would have been taken on the plat application. Waiver requests that are not received by that day shall not be considered and action shall be taken on the plat application at such meeting scheduled.

(4) The Planning Director shall take action on the Waiver request within the thirty-day (30-day) period for acting on the plat.

(5) The granting of a Waiver request shall only extend time and shall not be a waiver to any requirements within this Chapter. A waiver from requirements herein is a separate and distinct process.

(6) With a Waiver, the time for approval may be extended by a period not to exceed thirty (30) days but in no case shall the ~~30-day waiver~~decision timeframe exceed ~~more than~~ sixty (60) days.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Secs. 4-6-12—4-6-15. - Reserved.

DIVISION 2. - PRELIMINARY PLAN

Sec. 4-6-16. - Purpose, exceptions, and effect.

(a) *Purpose.* The purpose of a Preliminary Plan shall be to determine the general layout of the Subdivision, the adequacy of public facilities needed to serve the intended development and the overall compliance of the land division with applicable requirements of this Chapter.

(b) *Exceptions.* A Preliminary Plan is not required when a Minor Plat is submitted (Chapter 4-6, Article II, Division 5).

(c) *Effect.* Approval of a Preliminary Plan shall authorize the Developer to submit applicable Construction Plans for approval by the responsible Officer under Article I, Division VIII.

If such Public Improvements are not constructed prior to Final Plat, the Developer must provide adequate Security, as provided in Section 4-6-58.

(d) Multi-unit, residential Subdivisions that are more than fifty (50) percent platted upon the effective date of this ordinance are not required to submit a Preliminary Plan for the remainder of the Subdivision; however, submission is recommended. The amount of property previously platted will be determined on the acreage platted from the original parent tract under common ownership (up to a full section of property).

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-17. - Application and procedures.

(a) *Pre-Application Conference.* Prior to a Preliminary Plan submittal, the Developer or his authorized agent is encouraged to meet with the Planning Director who will determine if a Preliminary Plan is required. Should Preliminary Plan approval be required, the relationship of the proposed subdivision to the City's Comprehensive Plan, Storm Water Management Criteria Manual, Zoning Ordinance, Street requirements, Utility service, and the general character of the development may be discussed to acquaint the Developer with City platting requirements and procedures.

(b) *Responsible Official and Initial Review.* The Planning Director shall be the responsible Official for a Preliminary Plan and the Development Review Committee shall be the initial reviewing body for a Preliminary Plan.

(c) *Fees.* The Developer shall pay a non-refundable application fee of three hundred fifty dollar ($350.00) for the first acre and an additional ten dollar ($10.00) per acre per additional acre for each Preliminary Plan submitted.

(d) *Application Content.* Applications for a Preliminary Plan shall be submitted on a form supplied by the City of Amarillo with the required information as stated on the application form. When more than one (1) sheet is necessary to accommodate the entire Plan area, an index sheet at appropriate scale showing the entire area shall be attached. The date the Plan was submitted shall legibly appear on the Plan.

(e) *Accessories.* An application for a Preliminary Plan may be accompanied by:

(1) an Application for Zoning approval; and/or.

(2) Construction Plans.

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

(f) *Development Review Committee.* The Development Review Committee shall, at each meeting, review each pending Preliminary Plan application.

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

(1) Approval of the Preliminary Plan,

(2) ~~Denial~~ Disapproval of the Preliminary Plan, or

(3) Approval of the Preliminary Plan with specific conditions.

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

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-18. - Action.

(a) *Review and Determination.* The Planning Director and Development Review Committee shall review the physical arrangement of the Subdivision, and determine the adequacy of Streets and Thoroughfare Rights-of-Way and alignment that comply with the Amarillo Functional Classification Transportation Plan, the existing Street patterns in the area, and with other applicable provisions of the Comprehensive Plan. The Planning Director shall also determine the adequacy of Easements and Rights-of-Way and compliance of the drainage system with the Storm Water Management Criteria Manual. The Planning Director shall also ascertain that adequate Easements for proposed or future Utility service are provided, and that the lot size and area are adequate to comply with the minimum requirements for the type of sanitary sewage disposal proposed. Where connection to an approved on-site sanitary sewage collection and treatment system is proposed, all lots and Building sites shall contain a minimum area sufficient to meet the requirements of the Director of Environmental Health, who may also certify the lots as being adequate for septic tank operation after tests of the soil. The Planning Director shall also review findings of the Development Review Committee and findings of the staff report regarding compliance with Development Review Committee recommendations.

From all such information, the Planning Director shall determine whether the Preliminary Plan meets the standards of the Chapter.

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

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

(2) *Approved with conditions.* If approved with conditions, the Planning Director shall provide such conditions in writing to the Developer.

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

(4) Each condition of approval specified under (b)(2) and each reason for disapproval under (b)(3):

a. Must be directly related to the requirements under this chapter; and

b. Must include a citation to the law, including a statute or municipal ordinance, and/or adopted plan, policy, and/or standard that is the basis for the conditional approval or disapproval, if applicable; and

c. May not be arbitrary.

(c) *Approval Procedure: Developer Response to Conditional Approval or Disapproval*. After the conditional approval or disapproval of a Preliminary Plan under (b)(2) or (b)(3), above, the Developer may submit to the Planning Director a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The City may not establish a deadline for a Developer to submit the response.

(d) *Approval Procedure*: *Approval or Disapproval of Response*.

(1) When the Planning Director receives a response under paragraph (c), above, the Planning Director shall determine whether to approve or disapprove the Developer's previously conditionally approved or disapproved Preliminary Plan not later than the 15th day after the date the response was submitted.

(2) If the Planning Director receives a response under paragraph (c), above, the Planning Director shall approve a previously conditionally approved or disapproved Preliminary Plan if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(3) If the Planning Director conditionally approves or disapproves a Preliminary Plan following the submission of a response under paragraph (c), above, the Planning Director:

a. Must comply with paragraph (b), above; and

b. May disapprove the plan only for a specific condition or reason provided to the Developer under paragraph (b), above.

(4) A previously conditionally approved or disapproved Preliminary Plan is approved if:

a. The Developer filed a response that meets the requirements of paragraph (c), above; and

b. The Planning Director does not disapprove the plan on or before the date required by paragraph (d)(1), above, and in accordance with paragraph (b), above.

(e) *Appeal.* If ~~denied~~the Planning Director disapproves a Preliminary Plan following the submission of a response under paragraph (c), above, the Developer may submit written appeal to the Planning and Zoning Commission within ten (10) calendar days after the date of the Planning Director's decision.

The written request shall be forwarded to the Planning and Zoning Commission for consideration at its next scheduled meeting. The Planning and Zoning Commission shall either:

(1) Approve the Preliminary Plan,

(2) Approve the Preliminary Plan with specific conditions, or

(3) ~~Deny~~ Disapprove the Preliminary Plan.

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

If approved, the Planning and Zoning Commission chairman shall affix his signature to the Preliminary Plan and attach thereto a notation that it has received approval. One (1) copy shall be returned to the Developer and one (1) identical copy shall be retained by the City of Amarillo's Planning Department.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-19. - Criteria for approval.

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

(a) The proposed provision and configuration of roads, alleys, water, wastewater, and drainage conform to the City's adopted master plans for those facilities, including without limitation water facilities, wastewater facilities, transportation, drainage, and any other municipal plans;

(b) The proposed provision and configuration of roads, alleys, water, wastewater, drainage, easements, and rights-of-way are adequate to serve the subdivision and meet applicable standards of the Chapter;

(c) All contiguous property under common ownership within the section is included in the Preliminary Plan. This information aids the Planning Director in taking action on the Plan and may be used to determine whether development of the property as a whole complies with this Chapter. Based upon such information the Planning Director may require additional or less property be included in the Plan in order to satisfy the standards applicable of this Chapter;

(d) The plan has been duly reviewed by applicable City staff and franchise utility companies, including the Planning Director and the Development Review Committee;

(e) The plan conforms to design requirements and construction standards as set for in this Chapter;

(f) If the proposed Preliminary Plan is intended to be a phased development, each phase shall be able to meet all applicable development related City standards and requirements; and

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-20. - Effect of approval of a preliminary plan.

(a) *Right to Proceed.* The approval of the Preliminary Plan application shall allow the Developer to proceed with the development and platting process by submitting zoning applications, Construction Plans, and a Final Plat.

(b) *Installation of Public Improvements.*

(1) Approval of the Preliminary Plan shall be deemed an approval of the layout illustrated on the Preliminary Plan as a guide to the installation of streets, alleys, water, sewer, utilities, and other improvements that are planned or required within the proposed Subdivision.

(2) Approval of the Preliminary Plan shall not constitute approval of a Final Plat or Construction Plans for a proposed Subdivision, nor shall approval of the Preliminary Plan be construed to mean acceptance by the public of a proposed dedication of any roads, alleys, utilities, drainage ways, or other such land and improvements.

(3) Construction of all Public Improvements shall be based upon approved Construction Plans, and shall occur either:

a. Prior to Final Plat approval, or

b. Following Final Plat approval and recordation, upon approval of a Subdivision Improvement Agreement, and upon submittal of Security in lieu of completing construction, in accordance with Division VIII of this Article.

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-21. - Expiration and extension.

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

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

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-22. - Revisions following approval of preliminary plan.

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

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

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

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Secs. 4-6-23—4-6-25. - Reserved.

DIVISION 3. - VESTED RIGHTS

Sec. 4-6-26 - Purpose; state law.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Secs. 4-6-27—4-6-29. - Reserved.

DIVISION 4. - FINAL PLAT

Sec. 4-6-30. - Purpose, applicability, and effect.

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

(b) *Applicability.* Construction of Public Improvements may occur prior to Final Plan approval if requirements in Division VIII of this Article are met.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-31. - Application and procedures.

(a) *Responsible Officer.* The Planning Director shall be the responsible Officer for a Final Plat and the Development Review Committee shall be the initial reviewing body for the Final Plat.

(b) *Fees.* The Developer shall pay a non-refundable application fee of five hundred dollars ($500.00) for the first acre and an additional ten dollars ($10.00) per additional acre for each Final Plat submitted.

(c) *Application Deadline.* Final Plat applications shall be submitted in accordance with submittal deadlines approved by the Amarillo Planning and Zoning Commission. A schedule of such dates is available at the City of Amarillo Planning Department.

(d) *Prior Approved Preliminary Plan.* The Final Plat and all accompanying data shall substantially conform to the active Preliminary Plan, if any, as approved by the Planning Director, incorporating all modifications and conditions imposed or required by the Planning Director or Planning and Zoning Commission.

(e) *Application Contents.* All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form. The Developer may submit a Final Plat only a portion of an approved Preliminary Plan, which he proposes to record and develop at the time, provided such portion conforms to all requirements of this Chapter.

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

(1) Approval of the Final Plat,

(2) ~~Denial~~ Disapproval of the Final Plat, or

(3) Approval of the Final Plat subject to corrections or alterations required prior to consideration by the Planning and Zoning Commission.

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

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7688, § 14, 9-12-17)

Sec. 4-6-32. - Action.

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

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

(b) Approval ~~or Denial~~Procedure. The Planning and Zoning Commission shall decide whether to approve, approve with conditions, or ~~deny~~ disapprove the Final Plat application.

(1) *Approved.*

a. If the Planning and Zoning Commission finds the Final Plat meets all standards set forth in this Chapter and ~~recommends~~ approves the Final Plat ~~approval~~, the action of the Commission shall be noted on two (2) Mylar copies and one (1) PMT of the Final Plat, referenced and attached to any conditions determined.

b. One (1) Mylar copy shall be returned to the Developer and one (1) Mylar copy and one (1) PMT shall be filed of record at the appropriate county. The PMT shall be

returned to City of Amarillo Planning Department and retained in the Planning Department's files.

(2) *Approved with conditions.* If the Planning and Zoning Commission finds the Final Plat does not meet all standards and ~~recommends either approval~~ approves the Final Plat with conditions ~~or denial~~, the documents shall be returned to the Developer for necessary revisions. The Developer may submit a response in accordance with paragraph (c), below, or make the revisions specified by the Planning and Zoning Commission.

(3) *Disapproved*. If the Planning and Zoning Commission finds the Final Plat does not meet all standards and disapproves the Final Plat, the Developer may submit a response in accordance with paragraph (c), below, or may submit a new application in accordance with this Division.

(4) Each condition of approval specified under (b)(2) and each reason for disapproval under (b)(3):

a. Must be directly related to the requirements under this chapter; and

b. Must include a citation to the law, including a statute or municipal ordinance, and/or adopted plan, policy, and/or standard that is the basis for the conditional approval or disapproval, if applicable; and

c. May not be arbitrary.

~~(2)~~(5) The reasons for any action taken by the Commission, whether a Final Plat is approved, approved with conditions, or ~~denied~~disapproved, shall be entered in the minutes of the Planning and Zoning Commission.

(c) *Approval Procedure: Developer Response to Conditional Approval or Disapproval*. After the conditional approval or disapproval of a Final Plat under (b)(2) or (b)(3), above, the Developer may submit to the Planning and Zoning Commission a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The City may not establish a deadline for a Developer to submit the response.

(d) *Approval Procedure*: *Approval or Disapproval of Response*.

(1) When the Planning and Zoning Commission receives a response under paragraph (c), above, the Planning and Zoning Commission shall determine whether to approve or disapprove the Developer's previously conditionally approved or disapproved Final Plat not later than the 15th day after the date the response was submitted.

(2) If the Planning and Zoning Commission receives a response under paragraph (c), above, the Planning and Zoning Commission shall approve a previously conditionally approved or disapproved Final Plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(3) If the Planning and Zoning Commission conditionally approves or disapproves a Final Plat following the submission of a response under paragraph (c), above, the Planning and Zoning Commission:

a. Must comply with paragraph (b), above; and

b. May disapprove the plat only for a specific condition or reason provided to the Developer under paragraph (b), above.

(4) A previously conditionally approved or disapproved Final Plat is approved if:

a. The Developer filed a response that meets the requirements of paragraph (c), above; and

b. The Planning and Zoning Commission does not disapprove the Final Plat on or before the date required by paragraph (d)(1), above, and in accordance with paragraph (b), above.

(5) The Planning and Zoning Commission may convene a special meeting whenever required to comply with statutory deadlines, including Texas Local Government Code Chapter 212, Section 212.0095.

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-33. - Criteria for approval.

The following criteria shall be used to determine whether the application for a Final Plat shall be approved, approved with conditions, or ~~denied~~disapproved:

(a) *Prior Approved Preliminary Plan:*

(1) The Final Plat conforms to the active Preliminary Plan, if any, except for minor changes authorized under Division 2 of this Article and that may be approved without the necessity of revising the approved Preliminary Plan;

(2) All conditions imposed at the time of the Preliminary Plan, as applicable, have been satisfied;

(3) Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the City Engineer;

(4) Where the City Engineer has authorized Public Improvements to be deferred, the Subdivision Improvement Agreement and Security have been executed and submitted by the property owner in conformity with Division VIII of this Article;

(5) The final layout of the Subdivision or development meets all standards for adequacy of public facilities contained in this Chapter;

(6) The Final Plat meets any applicable county standards to be applied under an interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county;

(7) The plat conforms to design requirements and construction standards as set forth in this Chapter;

(8) The plat is consistent with the zoning of the property; and

(9) The plat conforms to the subdivision application checklist.

(b) *No Prior Approved Preliminary Plan:*

(1) The Final Plat conforms to all criteria for approval of a Preliminary Plan;

(2) The approved Construction Plans conform to the requirements of this Chapter;

(3) Where Public Improvements have been installed, the improvements conform to the approved Construction Plans and have been approved for acceptance by the City Engineer;

(4) Where the City Engineer has authorized Public Improvements to be deferred, the Subdivision Improvement Agreement and Security have been executed and submitted by the property owner in conformity with Division VIII of this Article;

(5) The Final Plat meets any applicable county standards to be applied under an interlocal agreement between the City and the county under Texas Local Government Code, Chapter 242, where the proposed development is located in whole or in part in the extraterritorial jurisdiction of the City and in the county;

(6) The proposed plat is consistent with the zoning of the property; and

(7) The Final Plat conforms to the application checklist.

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-34. - Plat recordation.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-35. - Revisions to final plat.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Secs. 4-6-36—-4-6-39. - Reserved.

DIVISION 5. - MINOR PLATS

Sec. 4-6-40. - Purpose, applicability, and effect.

(a) *Purpose.* The purpose of a Minor Plat is to simplify divisions of land under certain circumstances outlined in State law.

(b) *Applicability.* An application for approval of a Minor Plat may be filed only in accordance with State law, when all the following circumstances apply:

(1) The proposed division results in four (4) or fewer lots,

(2) The plat does not require extension of any municipal facilities to serve any lot within the Subdivision, and

(3) All lots in the proposed subdivision front onto an existing street and the construction or extension of a street or alley is not required to meet the requirements of this Chapter, however, right-of-way widening and easements shall be permitted as part of a Minor Plat.

(c) *Effect.* Approval of a Minor Plat authorizes the Developer to submit an application for a building permit for any lot in the Subdivision.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-41. - Application and procedures.

(a) *Responsible Officer.* The ~~Planning Director~~Assistant City Manager, or their designee, shall be the responsible Official for a Minor Plat and the Development Review Committee shall be the reviewing body for a Minor Plat.

(b) *Fees.* The Developer shall pay a non-refundable application fee of four hundred fifty dollars ($450.00) for the first acre and an additional ten dollars ($10.00) per additional acre for each Minor Plat submitted or if no notification is required, three hundred twenty-five dollars ($325.00) for the first acre and an additional ten dollars ($10.00) per acre per additional acre for each Minor Plat submitted.

(c) *Application Deadline.* Minor Plat applications shall be submitted in accordance with submittal deadlines approved by the Amarillo Planning and Zoning Commission. A schedule of such dates is available at the City of Amarillo Planning and Development Services Department.

(d) *Pre-Application Conference.* Prior to filing a Minor Plat application, the Developer(s) may request a Pre-Application Conference with the ~~Planning Director~~Assistant City Manager and any other pertinent City Official(s). Such conference is optional.

(e) *Application Contents.* All applications shall be submitted on a form supplied by the City of Amarillo's Planning and Development Services Department with the required information as stated on the application form.

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

(1) Approval of the Final Plat,

(2) ~~Denial~~ Disapproval of the Final Plat, or

(3) Approval of the Final Plat subject to corrections or alterations required prior to consideration.

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7688, § 12, 9-12-17)

Sec. 4-6-42. - Action.

(a) ~~(a)~~ ~~*Final*~~ *Approval Procedure*. The Assistant City Manager, or their designee, ~~of Development Services~~ shall approve, approve with conditions, or disapprove the Minor Plat application or refer ~~it~~ the Minor Plat to the Planning and Zoning Commission for consideration.

(1) *Approved.* If approved, the Assistant City Manager shall sign the Minor Plat and attach thereto a notation that it has received approval by the Assistant City Manager.

(2) *Approved with Conditions*. If the Assistant City Manager finds the Minor Plat does not meet all standards and approves the Minor Plat with conditions, the documents shall be returned to

the Developer for necessary revisions. The Developer may submit a response in accordance with paragraph (b), below, or make the revisions specified by the Assistant City Manager.

(3) *Disapproved*. If the Assistant City Manager finds the Minor Plat does not meet all standards and disapproves the Minor Plat, the Developer may submit a response in accordance with paragraph (b), below, or may submit a new application in accordance with this Division.

(4) *Referred to Planning and Zoning Commission.* If the Assistant City Manager refers the Minor Plat to the Planning Commission, the Development Review Committee and the Planning and Zoning Commission shall review and act on the Minor Plat in accordance with the procedures for a Final Plat application under Division 4 of this Article.

(5) Each condition of approval specified under (a)(2) and each reason for disapproval under (a)(3):

a. Must be directly related to the requirements under this chapter; and

b. Must include a citation to the law, including a statute or municipal ordinance, and/or adopted plan, policy, and/or standard that is the basis for the conditional approval or disapproval, if applicable; and

c. May not be arbitrary.

(b) *Approval Procedure: Developer Response to Conditional Approval or Disapproval*. After the conditional approval or disapproval of a Minor Plat under (a)(2) or (a)(3), above, the Developer may submit to the Assistant City Manager a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The City may not establish a deadline for a Developer to submit the response.

(c) *Approval Procedure*: *Approval or Disapproval of Response*.

(1) When the Assistant City Manager receives a response under paragraph (b), above, the Assistant City Manager shall determine whether to approve or disapprove the Developer's previously conditionally approved or disapproved Minor Plat not later than the 15th day after the date the response was submitted.

(2) If the Assistant City Manager receives a response under paragraph (b), above, the Assistant City Manager shall approve a previously conditionally approved or disapproved Minor Plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(3) If the Assistant City Manager conditionally approves or disapproves a Minor Plat following the submission of a response under paragraph (b), above, the Assistant City Manager:

a. Must comply with paragraph (a), above; and

b. May disapprove the plan only for a specific condition or reason provided to the Developer under paragraph (a), above.

(4) A previously conditionally approved or disapproved Minor Plat is approved if:

a. The Developer filed a response that meets the requirements of paragraph (b), above; and

b. The Assistant City Manager does not disapprove the plan on or before the date required by paragraph (c)(1), above, and in accordance with paragraph (a), above.

~~(1)~~

(b) *Administrative Denial.* In any case in which a Minor Plat is submitted and is deemed complete, but is not reviewed by the Development Review Committee because it must be acted on by the Assistant City Manager ~~of Development Services~~ due to the State law mandated 30-day timeframe for action on plats and no Waiver of Right for 30-Day Action is submitted by the Developer, the Minor Plat shall be subject to denial by the Assistant City Manager ~~of Development Services~~.

(c) *Deemed Approved.* If the Minor Plat is approved by the Assistant City Manager ~~of Development Services~~, then no approval by the Planning and Zoning Commission is needed. If the Assistant City Manager ~~of Development Services~~ fails to act on a Minor Plat application, the Planning and Zoning Commission shall act on such plat within thirty (30) days. If no action is taken within thirty (30) days, the Minor Plat application shall be deemed approved.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-43. - Criteria for approval.

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

(a) The Minor Plat is consistent with all zoning requirements for the property;

(b) The final layout of the Subdivision or development meets standards in this Chapter;

(c) All lots to be created by the plat already are adequately served by all required City utilities and services;

(d) The ownership, maintenance, and allowed uses of all designated easements have been stated on the Minor Plat;

(e) The plat does not require the extension of any municipal facilities to serve any lot within the subdivision; and

(f) The plat conforms to the Subdivision checklist.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-44. - Plat recordation.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Secs. 4-6-45—4-6-47. - Reserved.

DIVISION 6. - REVISIONS TO RECORDED PLATS

Sec. 4-6-48 - General requirements for plat revisions

(a) *Applicability.* Except as expressly stated otherwise in this Division, any change to a recorded plat shall require approval by the Planning and Zoning Commission. The application and procedures for approval of such changes to a recorded plat shall be in accordance with the application and procedures for a Final Plat application under Division 4 of this Article.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-49. - Replats without vacation.

(a) *Applicability.* A replat of all or a portion of a recorded plat may be approved in accordance with State law without vacation of the recorded plat, if:

(1) The replat is signed and acknowledged by the owners of the property being replatted, and

(2) The replat does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.

(b) *Notice and Hearing.* Notice of the public hearing [KC1]on a residential replat application shall be given in accordance with State law. The hearing shall be conducted by the Planning and Zoning Commission.

(c) *Application Contents.* Applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form.

(d) *Fees.* The Developer shall pay a non-refundable application fee of three hundred fifty dollar ($350.00) for the first acre and an additional ten dollar ($10.00) per additional acre for each Replat Plat submitted.

(e) *Partial Replat Application.* Any replat which adds or reduces lots must include the original Subdivision and lot boundaries. If a replat is submitted for any portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which have been changed.

(f) *Criteria for approval.* The replat of the subdivision shall meet all review and approval criteria for a Final Plat.

(g) *Effect.* Upon approval, the replat shall be recorded with the appropriate County Clerk and is controlling over the previously recorded plat for the portion replatted.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-50. - Special replat requirements.

(a) *Applicability.* In addition to compliance with the requirements of Section 4-6-49 above, a replat without vacation of the preceding plat, in accordance with State law, must conform to the requirements of this Section if:

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

(2) During the preceding five (5) years, any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

(b) *Exception.* The requirements of this Section shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single or duplex-family residential uses.

(c) *Notice of Hearing.* Notice of the public hearing on the replat application shall be given in accordance with State law. Notice shall be accompanied by a copy of the language of subsection (d) below. The hearing shall be conducted by the Planning and Zoning Commission in accordance with State law.

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

of the public hearing. In computing the percentage of land area under this section, the area of streets and alleys shall be included.

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Sec. 4-6-51. - Amending plats.

(a) *Purpose.* The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to the recorded plat consistent with provisions of State law.

(b) *Applicability.* The procedures for amending plats shall apply only if the sole purpose of the amending plat is to achieve the following:

(1) Correct an error in a course or distance shown on the preceding plat;

(2) Add a course or distance that was omitted on the preceding plat;

(3) Correct an error in a real property description shown on the preceding plat;

(4) Indicate monuments set after the death, disability, or retirement from practice of the Engineer or Surveyor responsible for setting monuments;

(5) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(6) Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) Correct an error in courses and distances of lot lines between two (2) adjacent lots if:

a. Both lot owners join in the application for amending the plat;

b. Neither lot is abolished; and

c. The amendment does not attempt to remove recorded covenants or restrictions.

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

(9) Relocate one or more lot lines between one or more adjacent lots if:

a. The owners of all those lots join in the application for amending the plat;

b. The amendment does not attempt to remove recorded covenants or restrictions; and

c. The amendment does not increase the number of lots,

(10) Make necessary changes to the preceding plat to create four (4) or fewer lots in the Subdivision or a part of the Subdivision covered by the preceding plat if:

a. The changes do not affect applicable zoning and other regulations of the municipality;

b. The changes do not attempt to amend or remove any covenants or restrictions; and

c. The area covered by the changes is located in an area that the City Council planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area, or

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

a. The owners of all those lots join in the application for amending the plat;

b. The amendment does not attempt to remove recorded covenants or restrictions;

c. The amendment does not increase the number of lots; and

d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

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

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

(e) *Fees.* The Developer shall pay a non-refundable application fee of four hundred fifty dollars ($450.00) for the first acre and an additional ten dollars ($10.00) per additional acre for each Amending Plat submitted if no notification is required, three hundred twenty-five dollars ($325.00) for the first acre and an additional ten dollars ($10.00) per acre per additional acre for each Amending Plat submitted.

(f) *Criteria for Approval.* The Assistant City Manager of Development Services shall decide whether to approve or refer the Amending Plat application to the Planning and Zoning Commission for consideration based on a finding that the amending plat makes only those changes to the recorded plat that are allowed under Subsection (b) above.

(g) *Decision.* The Assistant City Manager of Development Services shall either approve the Amending Plat application or refer it to the Planning and Zoning Commission for consideration. The Assistant City Manager of Development Services shall not approve variances.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7688, § 13, 9-12-17)

Sec. 4-6-52. - Plat vacation.

(a) *Applicability.* A plat vacation application must be approved by the Planning and Zoning Commission prior to vacation of any recorded plat or portion thereof. A plat may be vacated only in conjunction with approval of a new plat application and in accordance with State law.

(b) *Application.* If no lot subject to the recorded plat has been sold, the property owner may apply for a plat vacation. If any lot in the subdivision has been sold, the recorded plat or any portion thereof may be vacated only upon application of all lot owners in the subdivision. A plat vacation application shall be accompanied by an application for a Preliminary Plan or Final Plat for the land subject to the recorded plat or portion thereof to be vacated, prepared in accordance with this Article. A plat vacation application also shall be accompanied by an unconditional Waiver of Right to 30-Day action (on the State law timeline for general approval of plats) for the plat vacation application, pending approval of a new Final Plat application for the same land.

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

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

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

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

DIVISION 7. - MINIMUM DESIGN STANDARDS

Sec. 4-6-53. - Streets and alleys

(a) *Streets.* Unless otherwise approved by the Planning and Zoning Commission, provisions shall be made for the extension of Arterial Streets in accordance with the Transportation Plan of the City.

(1) Collector Streets shall be provided for the circulation of traffic through a Subdivision and the connection thereof to Arterial Streets. Adequate Local Streets shall be provided to accommodate access within the Subdivision.

(2) Where such is not shown in the Transportation Plan, the arrangement of Streets in a Subdivision shall either:

a. Provide for the continuation or appropriate projection of existing Arterial Streets in surrounding areas; or

b. Conform to a Conceptual Development Plan approved or adopted by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing Street alignment impractical.

(3) Residential Streets shall be so laid out that their use by through traffic will be discouraged.

(4) Where a Subdivision abuts or contains an existing or proposed major Street or highway, the Planning and Zoning Commission may require Marginal Access Streets, or such access design as may be necessary for adequate protection of Residential properties and to afford separation of through and local traffic.

(5) Where a Subdivision borders on or contains a Railroad Right-of-Way or Marginal Access Street Right-of-Way, the Planning and Zoning Commission may require a Street approximately parallel to and on each side of the intervening Right-of-Way. Such Streets shall be determined with consideration for the requirements of approach grades and future grade separations.

(6) Street alignments with centerline offsets of less than the following should be avoided:

a. Local-Local, one hundred twenty-five (125) feet;

b. Local-Collector, one hundred fifty (150) feet; and

c. Collector-Collector, one hundred fifty (150) feet.

(7) Street intersections:

a. More than two (2) Streets intersecting at a point should be avoided; and

b. Where two (2) or more Streets converge at one (1) point, or acute intersection angles occur, setback lines or special rounded or cutoff corners, or both, may be required to ensure public safety and to facilitate orderly traffic movements; and

c. Streets should intersect at a ninety-degree angle, and in no case should the angle be less than seventy-five (75) degrees; and

d. Streets should have at least a fifty-foot tangent section of roadway approaching an intersection.

(8) Dead-end Streets, Culs-de-sac and Courts may be allowed where the form or contour of the land or the shape of the property makes such Street design appropriate. Such Dead-end Streets, Culs-de-sac or Courts shall provide frontage access to all Lots, shall not exceed one thousand (1,000) feet in length and shall provide a turnaround at the closed end which has a minimum Right-of-Way radius of fifty (50) feet. A turnaround with less than a fifty-foot Right-of-Way radius may be approved by the Planning and Zoning Commission if topographic or other site conditions make the normal design impractical.

(9) The system of Streets designated for the Subdivision, except in unusual cases, must connect with Streets already dedicated in adjacent Subdivisions. Where adjacent connections are not platted, the Streets must be the reasonable projections of Streets in the nearest subdivided Tracts, and must continue to the boundaries of the Tract subdivided, so that other Developers may connect therewith. Reserve strips of land controlling ingress to or egress from other property, or to or from any Street or Alley, or restricting access of the adjoining property shall not be permitted.

(10) Block length and width shall be such as to accommodate the size of Lots required by Zoning regulations for the location of the Subdivision and to provide for convenient access, circulation control and safety of vehicular and pedestrian traffic. The length of Residential Blocks should be approximately one thousand (1,000) feet and may be varied to meet the requirements of circulation and topography.

(11) Half Streets shall be prohibited, except where essential to the reasonable development of the Subdivision and these regulations; and wherever a half Street is within a Tract to be subdivided and is essential, the other half of the Street shall be dedicated along with the dedication of the half Street within the proposed Subdivision.

(12) Street Right-of-Way shall have a minimum dedicated width as prescribed by the Transportation Plan standards and shall be in accordance with the following Streets standards:

Street Type	Width (feet)
Arterial	120
Industrial	60 to 80
Collector	50 to 70
Local	50 to 70
Local, without Alleys	70
Marginal	45

(13) Where special conditions warrant, a Street of lesser width may be approved by the Planning and Zoning Commission.

(14) Street names: New Streets shall be named as to provide continuity of names with existing Streets. Similar or identical names to previously names Streets shall not be approved unless they are to be extensions of existing Streets of the same name.

(15) Pedestrian walk Rights-of-Way not less than ten (10) feet wide shall be required where deemed necessary to provide access to schools, playgrounds, shopping centers, transportation and other community facilities.

(16) For Lots platted in ~~the~~ any Zoning District or in the Extraterritorial Jurisdiction that do not have Alley access~~;~~

a. Street Right-of-Way shall have a minimum width of ~~sixty~~ seventy [KC2](~~60~~70) feet and~~.~~

b. Utilities shall be accommodated within the Street Right-of-Way.

(b) *Alleys.*

(1) The Planning and Zoning Commission shall determine whether Alleys shall be provided in all Plats~~, except~~. In making this determination, the Planning and Zoning Commission shall consider the following:

a. The existing development pattern in the surrounding neighborhood or section and whether it has or is planned to have Alleys; and

b. Proposed provisions ~~that the Planning and Zoning Commission may waive this requirement where other definite and assured provision is made~~ for service access, such as off-Street loading, solid waste collection, Utility services, unloading, and parking consistent with and adequate for the use proposed~~;~~ and

c. Findings from the Director of Public Works or their designee regarding the costs to the City for provision of solid waste collection services to serve the proposed development.

(3~~1~~) When provided ~~I~~in Residential Zoning Districts~~,~~ Alleys shall be ~~provided~~ located parallel or approximately parallel to the Streets.

(4~~2~~) The Planning and Zoning Commission shall decide if Alleys are required for Final Plats other than minor Final Plats that are approved by the Assistant City Manager of Development Services.

(5~~3~~) The minimum Right-of-Way width of an Alley shall be twenty (20) feet.

(6~~4~~) Where two (2) Alleys intersect, a corner cut-off of not less than twenty (20) feet along each property line from the normal intersection of the property lines shall be provided.

(7~~5~~) Dead-end Alleys shall not exceed four hundred (400) feet in length and shall provide a turnaround with a minimum radius of fifty (50) feet.

(Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-54. - Lots

(a) The Lot size, width, shape, depth, orientation, and the minimum Building Lines shall be appropriate for the location of the Plat and for the type of development and use contemplated.

(b) Lot dimensions shall conform to the minimum requirements established by the Zoning Ordinance.

(c) Residential Lots not served by a public wastewater system and located in a Plat which will not be served immediately by a central disposal unit shall not be less than one hundred (100) feet wide and not less than twenty thousand (20,000) square feet in area. In the City of Amarillo Extraterritorial Jurisdiction, Lots that will be served with a well and septic system shall meet the size requirements set forth by the Texas Commission on Environmental Quality.

(d) Each Lot shall front upon a public Street.

(e) Double frontage, and reverse frontage Lots should be avoided except where essential to provide separation of Residential Development from traffic arteries or to overcome specific disadvantages of topography and orientation.

A planting screen of at least ten (10) feet in width, and across which there shall be no right of access, shall be provided along the line of Lots abutting such a traffic artery or other incompatible use.

(f) Side Lot lines shall be substantially at right angles or radial to Street lines.

(g) Where an area is divided into larger Lots than for normal urban building sites and, in the opinion of the Planning and Zoning Commission, any or all of the Tracts are of a size capable of being resubdivided, the original Plat shall be such that the alignment of future Street dedication may conform to the general Street layout in the surrounding area.

(h) Lots Platted in the Extraterritorial Jurisdiction of Amarillo which have Frontage on an Arterial Street or a Street designated as an Arterial shall have a minimum Lot width of one hundred fifty (150) feet.

(Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-55. - Easements

(a) *Public Utility Easements.* Public Utility Easements shall be provided within a Subdivision as may be necessary to ensure proper design, installation and maintenance of Utilities. Easement widths shall be determined by the type and number of Utilities. In no case shall an Easement for water or sanitary sewer be narrower than fifteen (15) feet.

(1) The location of all dedicated public Utility Easements shall be determined by the City and shall be located so as to permit the installation of Utilities to other properties at a minimal cost.

(b) *Drainage Easements.* When a Plat is traversed by a watercourse, drainageway, channel or stream, there shall be provided a drainage Easement conforming substantially with the alignment of such watercourse. The Easement for such watercourse shall be of sufficient width to accommodate the design flow and to allow access for maintenance. Improvement or realignment may be required to ensure proper drainage of storm water. All such Easement and drainage facilities shall be in compliance with the Storm Water Management Criteria Manual.

(c) *Aviation hazard Easements.*[KC3][KC4] Plats located within an area designated by the City as being subject to aviation hazards shall dedicate an aviation hazard Easement to the City over and across that property so designated. This Easement shall establish a maximum height restriction on the use of property and to hold the public harmless for any damages caused by noise, vibration, fumes, dust, fuel, fuel particles or other effects that may be caused by the operation of aircraft taking off from, landing or operating on, or near public Airport facilities.

(d) *Additional Easements.* The Planning and Zoning Commission may require additional Easements across other parts of Lots are necessary for the installation of Utilities or drainageways.

(1) When the Capital Projects & Development Engineering Department ~~Engineering Department~~ or the Director of Utilities finds that Easements in areas adjoining proposed Plats are necessary to provide adequate drainage thereof or to serve such Plat with Utilities, the Developer shall provide such Easements or shall make arrangements with the City to obtain them at no cost to the City.

(2) Any Plat which alters the configuration of an existing Lot containing a structure and reduces the distance from an existing building to a proposed Lot line less than required by the Building Code for protection from fire exposure shall provide an Easement sufficient in width and depth to provide an adequate distance from the existing building to the proposed building as required by the Building Code.

(Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-56. - Variances

(a) *Variances.* In approving a Final Plat, the Planning and Zoning Commission may authorize a Variance to the design standards where topography, land ownership, adjacent development or other conditions are not provided for in these regulations. Also, the Planning and Zoning Commission may grant a

Variance for a complete neighborhood which, in the judgment of the Planning and Zoning Commission, provides adequate public space including provisions for sufficient quantities of light, air and other needs.

(b) *[Consideration.]* In considering a Variance to these requirements, the Planning and Zoning Commission should take into account the nature of the proposed use of the land, existing uses of the land in the vicinity, and the recommendations of the Planning Department and other departments involved in the Variance consideration.

(c) *[Granting.]* In granting a Variance to these requirements the Planning and Zoning Commission may make such additional requirements as deemed necessary to secure substantially the object or the standard of requirements for which the Variance was granted.

(d) *[Appeals.]* Any Developer or landowner who is denied a Variance by the Planning and Zoning Commission may, within ten (10) business days from the date of denial, file an appeal with the City Secretary for the appeal to be heard and considered by the City Council. The City Secretary shall schedule a time for a hearing before the City Council and shall notify any person indicating an interest in the hearing.

(Ord. No. 7525, § 1, 4-21-15)

DIVISION 8. - CONSTRUCTION MANAGEMENT[4]

Footnotes:
--- (4) ---
Editor's note— Ord. No. 7525, § 1, adopted April 21, 2015, added a new Ch. 4-6, Art. II, Div. 7. Subsequently, said ordinance renumbered the existing Ch. 4-6, Art. II, Div. 7, §§ 4-6-56—4-6-60 as Ch. 4-6, Art. II, Div. 8, §§ 4-6-57—4-6-61. See the Code Comparative Table for a complete derivation.

Sec. 4-6-57. - Construction plans.

(a) *Purpose.* The purpose of Construction Plans is to assure that public improvements required to be installed in order to serve a subdivision or a development are constructed in accordance with all standards of this Chapter and other City Ordinances.

(b) *Application Contents.* All applications shall be submitted on a form supplied by the ~~Engineering Department~~Capital Projects & Development Engineering Department with the required information as stated on the application form. Incomplete plans shall be returned to the Developer.~~;~~

(c) *Responsible Official and Decision*~~-~~.

~~(1)~~ The City Engineer shall be the responsible official for approval of storm water plans, drainage reports, ~~and~~ paving plans.~~;~~ and

~~(2)~~(1) ~~The Director of Utilities shall be the responsible official for approval of~~ water and wastewater plans.~~;~~

(d) *Approval Procedure.* For Construction Plans submitted following approval of a Preliminary Plan, the City Engineer ~~and Director of Utilities~~ shall approve, approve ~~subject to modifications~~with conditions, or ~~reject~~ disapprove the Construction Plans. ~~Incomplete plans shall be returned to the Developer;~~

(1) ~~(4)~~ *Approved.* If Construction Plans are approved, the plans shall be marked "approved" and one (1) set shall be returned to the Developer, and at least two (2) sets shall be retained in the City's files.~~;~~

(2) *Approved with Conditions.* If the City Engineer finds the Construction Plans do not meet all standards and approve the Construction Plans with conditions, ~~If the conditions of approval require revision(s) to the Construction Plans,~~ one (1) set of the plans shall be marked with

~~objections~~the conditions noted (on the plans themselves and/or in memo format) and returned to the Developer for ~~correction~~revision. The Developer's Engineer ~~shall~~may ~~correct~~revise the plans as requested and resubmit them for consideration.~~,~~ or the Developer may submit a response in accordance with paragraph (e), below.

(3) *Disapproved.* If the City Engineer finds the Construction Plans do not meet all standards and disapprove the Construction Plans, the Developer may submit a response in accordance with paragraph (e), below, or may submit a new application in accordance with this Division.

(4) Each condition of approval specified under (d)(2) and each reason for disapproval under (d)(3):

a. Must be directly related to the requirements under this chapter; and

b. Must include a citation to the law, including a statute or municipal ordinance, and/or adopted plan, policy, and/or standard that is the basis for the conditional approval or disapproval, if applicable; and

~~a.~~c. May not be arbitrary.

(e) *Approval Procedure: Developer Response to Conditional Approval or Disapproval*. After the conditional approval or disapproval of Construction Plans under (d)(2) or (d)(3), above, the Developer may submit to the City Engineer a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The City may not establish a deadline for a Developer to submit the response.

(f) *Approval Procedure*: *Approval or Disapproval of Response*.

(1) When the City Engineer receives a response under paragraph (e), above, the City Engineer shall determine whether to approve or disapprove the Developer's previously conditionally approved or disapproved Construction Plans not later than the 15th day after the date the response was submitted.

(2) If the City Engineer receives a response under paragraph (e), above, the City Engineer shall approve previously conditionally approved or disapproved Construction Plans if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

(3) If the City Engineer conditionally approves or disapproves Construction Plans following the submission of a response under paragraph (e), above, the City Engineer:

a. Must comply with paragraph (d), above; and

b. May disapprove the Construction Plans only for a specific condition or reason provided to the Developer under paragraph (d), above.

(4) Previously conditionally approved or disapproved Construction Plans are approved if:

a. The Developer filed a response that meets the requirements of paragraph (e), above; and

b. The City Engineer does not disapprove the plan on or before the date required by paragraph (f)(1), above, and in accordance with paragraph (e), above.

~~(f)~~(g) *Developer to provide additional sets of approved plans.* Once the Construction Plans are approved, the Developer shall provide additional sets of the approved plans to the City, as specified by the City Engineer, for use during construction. A full set of the City-approved and stamped Construction Plans must be available for inspection on the job site at all times.

~~(g)~~(h) ~~(d)~~ *Notification.* The City Engineer shall notify the Developer that the Construction Plans are approved.

~~(e) *Revised Plan Submittal.* If the conditions of approval require revision(s) to the Construction Plans, one (1) set shall be marked with objections noted (on the plans themselves and/or in memo format)~~

~~and returned to the Developer for correction. The Developer's Engineer shall correct the plans as requested and resubmit them for consideration.~~

~~(h)~~(i) ~~(f)~~ *Criteria for Approval.* The City Engineer shall render a decision on the Construction Plans in accordance with the following criteria:

(1) ~~(1)~~ The plans are consistent with the approved Preliminary Plan, or the proposed Final Plat;

(2) ~~(2)~~ The plans conform to the development standards, and standards for adequate public facilities contained in this Chapter and other City Ordinances; and

(3) ~~(3)~~ The plans conform to the specifications contained in the City of Amarillo's Standard Specifications for Construction.

~~(i)~~(j)~~(g)~~ *Approval Required.* Construction Plans must be approved in accordance with this Section prior to approval of the Final Plat.

~~(j)~~(k) ~~(h)~~ *Effect.* Approval of Construction Plans authorizes the property owner to install public improvements in rights-of-way offered for dedication to the public under an approved Preliminary Plan or Final Plat.

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-58. - Timing of public improvements.

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

(b) *Installation After Final Plat Approval.* The City Engineer, upon written request of the Developer, may defer the obligation to install one or more public improvements to serve the subdivision until after Final Plat approval.

The request shall be submitted with an application for Preliminary Plan or Construction Plan approval. Deferral of the obligation to install public improvements shall be conditioned on execution of sufficient surety to secure the obligations defined in the agreement or sureties as required in Section 4-6-59.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-59. - Security for completion of improvements.

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

(1) *Performance Bond.* A bond executed by a surety company holding a license to do business in the State of Texas, and acceptable to the City of Amarillo, on the form provided by the City of

Amarillo in an amount equal to the cost of improvements required by this Chapter and other City Ordinances. The performance bond shall be approved as a form by the City Attorney.

(2) *Trust Agreement.* A trust deposit in a bank or trust company for the benefit of the City of Amarillo, of a sum of money equal to the estimated cost of all improvements required by this Chapter and other City Ordinances. Selection of trustee shall be executed on the form provided by the City and approved as to form by the City Attorney.

(3) *Irrevocable Letter of Credit.* A letter, on a form provided by the City, signed by the principal officer of a local bank, Federally-insured savings and loan association, or other financial institution acceptable by the City of Amarillo, agreeing to pay the City of Amarillo on demand a stipulated sum of money to apply to the estimated cost of all improvements required by this Chapter and other City Ordinances. The guaranteed payment sum shall be the costs estimated by the Developer's professional engineer and approved by the City Engineer.

(4) *Deposit.* Cash, or certified check, deposited with and payable to the City in an amount equal to the total estimated construction costs of the required improvements.

(b) *Amount and Acceptability.* The security shall be issued in the amount of one hundred (100) percent of the cost estimate approved by the City Engineer for all public improvements associated with the subdivision. Surety instruments provided must be issued by a financial entity located within three hundred fifty (350) miles of the City of Amarillo. The security shall be subject to the approval of the City Attorney.

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

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

(1) Public improvements secured with a letter of credit, bond, or cash, and deemed completed and available for partial release will have passed all testing requirements of the applicable portions of the City of Amarillo's technical specifications. The value of completed improvements available for partial release will be the total value of the public improvement outlined in the development agreement minus any associated appurtenances required to insure the completion of the remaining related public improvements. Developer's application for release must provide a detailed estimate of costs provided by an Engineer of Record certifying that to the best of the engineer's knowledge the quantity of work requested for surety release is accurate related to the completed improvement.

(2) For public improvements secured with the cash escrow option before construction begins, a developer may request a partial release of the cash surety through a formal written request to the City Engineer. Developer's application for release must provide a detailed estimate of costs provided by an Engineer of Record certifying that to the best of the engineer's knowledge the quantity of work requested for surety release is accurate related to the installed improvement. The release of funds will be based on the level of detail and amounts provided in the schedule of values identified within the executed Developer Agreement. An amount equal to thirty (30) percent of the partial release request will be retained until such time the improvements have passed all testing requirements and are considered acceptable by the City Engineer. The frequency of this

type of partial release request must meet appropriate policy guidelines and contract documents established by the City Engineer.

(3) The Assistant City Manager of Development Services and other necessary City officials shall execute any documents necessary to cause release of any portion of the security in accordance with this provision, provided that all such documents shall be subject to approval by the City Attorney.

(4) No partial release shall be granted where any substantial part of work performed prior to the date of the application fails to meet City standards and specifications for any release other than incompleteness.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15; Ord. No. 7772, § 2, 2-12-2019)

Sec. 4-6-60. - Inspection and acceptance of public improvements.

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

(b) *Submission of Record Drawings.* The City shall not accept dedication of required public improvements until the contractor or the Developer's Engineer has provided to the City Engineer a detailed record drawing, when appropriate, or detailed information that includes changes made by change order or field order, revised plans or other matters not originally specified, showing the location, dimensions, materials, and other information to establish that the public improvements have been built in accordance with the approved Construction Plans and to reflect actual construction.

(c) *Acceptance or Rejection of Improvements.*

(1) The Responsible Official shall be responsible for certifying acceptance of completed subdivision improvement intended for dedication to the City of Amarillo;

(2) After final inspection, he shall notify the Developer and the Assistant City Manager of Development Services in writing as to his acceptance or rejection of such construction;

(3) The City Engineer shall reject such construction only if it fails to comply with standards and specification of the City of Amarillo.

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

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

(d) *Disclaimer.* Approval of a Preliminary Plan or Final Plat shall not constitute acceptance of any of the public improvements required to serve the subdivision or development. No public improvements shall be accepted for dedication by the City except in accordance with this Division.

(e) *Acceptance of Improvements in the Extraterritorial Jurisdiction.* Where the facilities to be constructed under the Subdivision Improvement Agreement are located within the City's extraterritorial jurisdiction, and are to be dedicated to a county, the City Engineer shall inform the county that the public improvements have been constructed in accordance with approved Construction Plans, and are ready for acceptance by the county.

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Sec. 4-6-61. - Maintenance and warranty of improvements.

(a) *Maintenance During Construction.* The Developer and contractors shall maintain all required public improvements during construction of the development.

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015; Ord. No. 7525, § 1, 4-21-15)

Secs. 4-6-62—4-6-64. - Reserved.

DIVISION 9. - PROPORTIONALITY APPEAL: RELIEF FROM DEDICATION OR ALLOCATION OF CONSTRUCTION COST REQUIREMENTS[5]

Footnotes:
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Editor's note— Ord. No. 7525, § 1, adopted April 21, 2015, added a new Ch. 4-6, Art. II, Div. 7. Subsequently, said ordinance renumbered the existing Ch. 4-6, Art. II, Div. 7, §§ 4-6-56—4-6-60 as Ch. 4-6, Art. II, Div. 8, §§ 4-6-57—4-6-61 and the existing Ch. 4-6, Art. II, Div. 8 as Ch. 4-6, Art. II, Div. 9. See the Code Comparative Table for a complete derivation.

Sec. 4-6-65. - Policy established.

(a) *Adequate Public Facilities Policy.*

(1) Land proposed for development in the City and in the City's Extraterritorial Jurisdiction must be served adequately by essential public facilities and services~~, including water, wastewater, roadway, neighborhood and community parks, and drainage facilities~~. Land shall not be approved for platting or development unless and until adequate public facilities necessary to serve the development exist or provision has been made for the facilities, whether the facilities are to be located within the property being developed or off-site.

~~(2) The City may not require, as a condition of development approval, that the developer bear a portion of the costs of public facilities by the making of dedications, the payment of monies, or payment of construction costs in excess of amounts required to offset the proposed development's roughly proportionate impact on public facilities.~~

(b) *Conditions of Development Approval Limited.*

(1) The City may not require, as a condition of development approval, that the developer bear a portion of the costs of public facilities by the making of dedications, the payment of monies, or payment of construction costs in excess of amounts required to offset the proposed development's roughly proportionate impact on public facilities.

(2) Public facilities subject to dedication, payment, or construction, under this section, shall be the subject to a written agreement or of the written approval by the City.

(3) The written agreement or approval must demonstrate the dedication, payment, or construction does not exceed the applicant's roughly proportionate share of the cost to mitigate the proposed development's impacts on essential public facilities and services.

(4) Written agreements and approvals under consideration shall be reviewed and subject to acceptance or revision by the City Attorney's Office prior to consideration of a recommendation or of final action by City staff, City Council, or other advisory body of the City.

(c) *Responsibility of the Developer to Provide.* The Developer shall be responsible for the following to ensure that public facilities provided are adequate:

(1) Phasing of development or improvements in order to ensure the provision of adequate public facilities;

(2) Extensions of public facilities and roadways (including any necessary on-site and off-site facilities) to connect to existing public facilities or roadways to the development;

(3) Providing and/or procuring all necessary property interests, including rights-of-way and easements, for the facilities (whether on-site or off-site),

(4) Providing proof to the City of adequate public facilities;

(5) Making provisions for future expansion of the public facilities as needed to serve future developments, in coordination with the City's oversize participation regulations (i.e., when the City will provide for the cost of over-sizing facilities), if applicable;

(6) Providing for all operations and maintenance of the public facilities, or if the City is not the provider, providing proof that a separate entity will be responsible for the operations and maintenance of the facilities;

(7) Providing all fiscal security required for the construction of the public facilities;

(8) Obtaining approvals from any applicable utility providers other than the City; and

(9) Comply with all requirements of utility providers, including the City or other applicable providers.

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

(1) Proposed facilities serving new development shall conform to and be properly related to the public facility elements of the City's adopted Comprehensive Plan, other adopted master plans for essential public facilities and services, and applicable capital improvement plans, and shall meet the service levels specified in such plans.

(2) The design and construction of all water and wastewater facilities to serve the subdivision shall be in conformance with the City's master plans for water and wastewater facilities and with the City's technical specifications.

(d) *Study Required.* If a Developer seeking approval of a Plat or Construction Plan for which an exaction requirement is imposed as a condition of approval, believes the exaction requirement is not roughly proportional to the nature and extent of the impact created by the proposed development, then the Developer shall state in writing the reasons for such and shall provide a study in support of such position. The City Engineer shall evaluate the study and shall make a determination based upon analysis of the information contained in the study. The City Engineer shall notify, in writing, the Developer of the determination. The Developer's study shall, at a minimum, include the following information, and may also contain other pertinent data and analysis:

(1) Total capacity of the City's water, wastewater, storm water, or roadway system to be utilized by the proposed development, employing standard measures of the capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the proposed development is to be developed in phases, such information

also shall be provided for the entire development proposed, including any phases already developed;

(2) Total capacity to be supplied to the City's water, wastewater, storm water, or roadway system by the proposed dedication of an interest in land or construction of capital improvements. If the development application is part of a phased development, the information shall include any capacity supplied by prior dedications or construction of capital improvements;

(3) Comparison of the capacity of the City's public facilities system(s) to be consumed by the proposed development with the capacity to be supplied to such system(s) by the proposed dedication of an interest in land or construction of capital improvements. In making this comparison, the impacts on the City's public facilities system(s) from the entire development shall be considered;

(4) The effect of any City participation in the costs of oversizing the capital improvement to be constructed in accordance with the City's requirements;

(5) Any other information that shows the allege disproportionality between the impacts created by the proposed development and the dedication or construction requirement imposed by the City;

(6) This proportionality analysis should not only be based on any immediate plans for the property, but should be based on the size of the property, existing use of the property, the existing zoning, and what impacts the highest and best use of the property could have on the City's infrastructure system; and

(7) Only costs directly related to the dedication or construction requirement should be included in the analysis. Indirect costs, such as applications, permits, and fees, shall not be included.

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

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

~~Sec. 4-6-66. - Agreements for Public Facilities.~~

~~(a) *Applicability.* An applicant may propose any legally authorized agreement with the City, alone or with other governmental units with jurisdiction, regarding the development of public facilities necessary to serve and meet the proportionate demands created by new subdivisions. Such agreements must comply and be adopted in accordance with Texas law and state statute, based on the location of the subject property and facilities and the nature of the arrangement proposed by the applicant, including whether the City participates in the costs of the facilities and, if authorized, whether the subject property is located within the City's extraterritorial jurisdiction.~~

~~(b) *Initiation.* The proposed agreement may be made by any person having a legal or equitable interest in the real property. If made by the holder of an equitable interest, the application shall be accompanied by a verified title report and by a notarized statement of consent to proceed with the proposed agreement executed by the holder of the legal interest.~~

~~(c) *Completeness.* The materials submitted supporting a proposed agreement will be evaluated for completeness pursuant to the completeness review provided for in Section 4-6-10 and any requirements under applicable Texas law.~~

~~(d) *Notice.* Agreements proposed and entered into under this section are considered a matter of special interest to the public and, therefore, information related to the agreement and subdivision may be contained in meeting notices and public meetings provided pursuant to this Chapter.~~

~~(e) *Approval Process and Scope of Approval.*~~

~~(1) A proposal for an agreement under this section must be submitted to the Planning Director at the time an application for subdivision approval is submitted. However, the City may accept such agreements deemed necessary to facilitate and meet conditions during the approval process.~~

~~(2) The procedures for applications contained in Chapter 4-6 of this Code will apply to an agreement proposed under this section.~~

~~(3) No agreement with the City will be deemed effective without express approval by City Council, pursuant to the procedures of this Code and Texas law, after review by City officials and advisory bodies.~~

~~(4) Any agreement under this section must be in writing, contain an accurate legal description and map or site plan of all subject parcels, and be recorded in the real property records of the county.~~

~~(5) Agreements under this section must be adopted by ordinance, resolution, or other official City Council action required by this Code or Texas law.~~

~~(f) *Approval Criteria.* The City Council may enter into an agreement for public facilities under this Section, consistent with the following, which shall be incorporated into the agreement:~~

(1) The City's participation in the cost of any proposed public facilities shall be subject to limitations of state law, if applicable, taking into consideration, among other things, whether an applicant proposes facilities in excess of or equal to those required to meet its proportionate share obligation.

(2) Design and construction of infrastructure and facilities shall be in accordance with the City's standards and policies governing procurement of professional services.

(3) All facilities provided by an applicant must comply with City plans and specifications approved by the Planning Director or other City official with jurisdiction or responsibility over the proposed public facility.

(4) Prior to construction of any facilities, the owner must deliver to the City Attorney and the City departments responsible for accepting, approving, or supervising the facilities a performance bond, payment bond, and maintenance bond from the contractor performing the work in the sum of 100 percent of the cost to complete the facilities as provided by the contract. Bonds must be executed by a surety company acceptable to and approved by the City Council, upon recommendation of the City Attorney, and authorized to do business in the State of Texas. Bonds must be in a form acceptable to and approved by the City Council and in compliance with applicable Texas statutes and laws.

(5) The developer must make all records relating to the construction of infrastructure and facilities available for the inspection of the Planning Director or his or her designee upon ten (10) business days' notice, or as otherwise provided by law.

(6) All facilities shall be expressly warranted, and the maintenance bond shall insure that construction is in compliance with plans and specifications approved by the City Departments responsible for accepting, approving, or supervising the facilities, and is free from all defects. Any defects shall be remedied and repaired within 20 days of written notice from the City that the defect exists unless additional time is granted, in writing by the City Attorney, to remedy the defect. The City shall be indemnified from all expenses and liability incurred by the City as a direct and proximate cause of any the defects for a period of up to two years after acceptance of the facility.

(7) Before awarding construction contracts for infrastructure and facilities, the total bid plus unit price bids shall be submitted to the Planning Director or the City department(s) responsible for accepting, approving, or supervising the facilities. If, after consultation with the City Engineer, the Planning Director determines the bid amounts exceed prices normally bid for the proposed facilities, he or she may require the owner to seek additional bids or to provide additional materials verifying actual costs.

(8) All construction contracts must be submitted to the City departments responsible for accepting, approving, or supervising the facilities for approval. Once approved by the department(s), a contract may not be amended or changed without prior written approval to the extent that the amendment or change impacts the facility.

(9) During the construction of facilities approved by an agreement under this section, the City has the right, but not the duty, to inspect the site for compliance with the approved plans and specifications and executed agreement.

~~(10) The Planning Director may require, after consultation with the City Attorney and City Engineer, that title insurance be provided at the owner's cost in an amount equal to the amount paid for the land and any facilities thereon, or other evidence of good title acceptable to the City Attorney, indicating the City will be receiving good and indefeasible fee simple title free and clear of all liens, encumbrances and restrictions.~~

~~(11) If the completed facilities are in compliance with the approved plans and specifications and the executed agreement, the Planning Director will issue a letter of acceptance evidencing the City's acceptance of ownership and maintenance, as applicable, of the facilities and real property associated therewith. In no event is the City required to accept separate facilities at different times; however, nothing precludes the City from doing so if, in the reasonable opinion of the Planning Director, it is beneficial and feasible for the City to do so. The City will not release any funds for payment towards facilities, if the executed agreement provides therefore, until the owner provides detailed documentation of the actual costs incurred, together with a written payment request, and the Planning Director has accepted the facilities as final and in compliance with the agreement.~~

~~(12) Unless otherwise approved by the City Attorney and City Council, and in compliance with Texas law, the applicant will indemnify, defend, and hold harmless the City, its officers, agents, and employees from all suits, actions, or claims of any character, name, and description brought for or on account of any injuries, including death or damages, received or sustained by any person or property on account of or arising out of the construction of a facility or if a defects existing within the warranty period; or on account of or arising out of the operations of the applicant, its contractor, agents, or employees or the contractor's subcontractors, agents, or employees; or on account of any negligent act or omission of the applicant, its contractor, agents, or employees or the contractor's subcontractors, agents, or employees; and the applicant will be required to pay any judgment with costs, which may be obtained against the City, its officers, agents, or employees growing out of the injury, including death or damages.~~

~~(g) *Reapplication.* If a proposed agreement is withdrawn or not accepted as proposed by the applicant by the City, the applicant may re-apply pursuant to the applicable procedures of Chapter 4-6 of this Code.~~

Sec. 4-6-667 - Appeal.

(a) *Purpose and Policy.* The purpose of an appeal of the City Engineer's determination that the routine application of uniform dedication and construction standards to a proposed plat does not result in a disproportionate burden on the property owner, taking into consideration the nature and extent of the demands created by the proposed plat on the City's public facilities systems relative to what is normal and reasonable for other similar subdivisions of property.

(b) *Appeal.* A Developer who disputes the determination made under this article may appeal to the City Council as provided in the Texas Local Government Code, Chapter 212.904, as amended.

(c) *Procedure.* The developer seeking relief from a required dedication, allocation of construction cost, or other exaction shall allege that application of the standard requirement is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, storm water, other utility, roadway system, or other public facility as the case may be, or does not reasonably benefit the proposed development. The appeal shall be in the form of a letter to the City Manager explaining the Developer's grounds and reasoning for why the Developer believes the requirements are not proportional to the development's impact on City facilities. The City Manager shall forward the appeal letter to the City Council for consideration, together with all evaluation

materials produced or considered by the City Engineer and Development Review Committee under the preceding section, including the Study submitted by the Developer in the preceding section.

(d) *Time for Filing.* An appeal shall be filed within ten (10) business days after the City Engineer's determination of the matter.

(e) *Public Hearing; Burden of Proof.* The City Council shall promptly schedule and conduct a public hearing after the appeal letter is received from the City Manager. The Developer bears the burden of proof to demonstrate that the City Engineer's determination results in a disproportionate burden on the Developer.

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

(1) Deny the appeal, and impose the standard or condition in accordance with the initial decision;

(2) Deny the appeal, and further require that additional dedications of rights-of-way for or improvements to such systems, or other requirements, be made as a condition of approval of the application in order to adequately offset the impacts of the development;

(3) Grant the appeal and waive part or all of a dedication or construction requirement to the extent necessary to achieve proportionality; or

(4) Grant the appeal and further direct that the City participate in some or all of the costs of constructing the capital improvement under standard participation policies.

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

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

(Ord. No. 7507, §§ 3, 4, 3-3-2015)

Secs. 4-6-67—4-6-100. - Reserved.

ARTICLE III. - PUBLIC IMPROVEMENTS GENERALLY

DIVISION 1. - GENERALLY

Sec. 4-6-101. - Citation.

This article shall be known and may be cited as the public improvement ordinance of the City.

(Ord. No. 6505, § 1, 7-11-2000)

Sec. 4-6-102. - Minimum standards.

(a) In the interpretation and application of this article, the provisions shall be held to be the minimum requirements adopted for the protection of the public health, safety and welfare and apply to all Urban Subdivisions approved by the City. Exceptions are:

(1) Street paving, Sidewalks, curbs and gutters are not required on any residential Lot or Tract platted prior to April 1, 1958, where the improvements would not tie into existing improvements.

(2) Alley paving is not required in a Residential Zoning district that is part of a Final Plat recorded prior to October 20, 1970.

(3) In a nonresidential Zoning district platted and recorded prior to October 20, 1970. Alley paving is not required when either one of the following conditions exist:

a. Adjacent Lots have previous building permits that did not require Alley paving; or

b. A structure will be adjacent to only a portion of an Alley and no effort is being made to develop the adjacent property. The building permit shall indicate no direct access to the Alley from the proposed Lots or drives will be allowed.

(b) Where a Subdivision has remained undeveloped regardless of the date it was platted in terms of buildings, Streets, Alleys, Sidewalks, and Utility lines, any new development in such Subdivision shall require the installation of all improvements.

(Ord. No. 6505, § 1, 11-7-2000)

Sec. 4-6-103. - Standards of construction and approval.

(a) Public improvements required by this article, except Sidewalks, shall be constructed or contracted to be constructed by or through approval of the City.

(b) Public Improvements, including Sidewalks, shall be constructed and maintained in accordance with applicable standard specifications prepared by the ~~Engineering Department~~Capital Projects & Development Engineering Department ~~and Director of Utilities~~ and policies of the City Council.

(Ord. No. 6505, § 1, 11-7-2000; Ord. No. 7525, § 2, 4-21-15)

Sec. 4-6-104. - Listing of Streets.

The Planning Department shall maintain:

(1) A Street name base map of the City, which shall contain the official Street names of all publicly dedicated Street names of all publicly dedicated Streets, officially approved places and private Streets within the City limits.

(2) The official Street guide of the City, which shall contain the official Street name spelling, the location of publicly dedicated Streets, officially approved places and private Streets within the City limits and all approved Plats within the Extraterritorial Jurisdiction of the City.

(Ord. No. 6505, § 1, 11-7-2000)

Sec. 4-6-105. - Reserved.

Editor's note— Ord. No. 7525, § 2, adopted April 21, 2015, repealed § 4-6-105 in its entirety. Formerly said section pertained to construction procedures and security procedures for street paving, paving tie-in, curb and gutter, alley, sidewalk and drainage projects and derived from Ord. No. 6505, § 1, 11-7-2000.

Secs. 4-6-106—4-6-120. - Reserved.

DIVISION 2. - SPECIFIC REQUIREMENTS FOR IMPROVEMENTS

Sec. 4-6-121. - Reserved.

Editor's note— Ord. No. 7525, § 2, adopted April 21, 2015, repealed § 4-6-121 in its entirety. Formerly said section pertained to improvements constructed or secured prior to building in subdivision and derived from Ord. No. 6505, § 1, 11-7-2000.

Sec. 4-6-122. - Waiver.

(a) The City Engineer ~~or Assistant Director of Utilities~~ may waive some or all of the requirements of sections 4-6-123 through 4-6-128 they administer when at least two (2) of the following conditions exist. The request for a waiver shall not be based upon self-imposed hardship or only the opportunity to make the property more profitable or reduce expense to the owner. Written application for waiver shall be submitted by the Developer or landowner. The waiver application shall state fully the grounds for the waiver and all facts related to such request:

(1) Allocation of City funding for the project is not immediately available.

(2) The Plat or Lot(s) to be developed contain(s) only partial or isolated improvements and the proposed improvements will not tie to existing improvements.

(3) The adjacent Street(s), road or highway is under the Texas Department of Transportation's maintenance and the Texas Department of Transportation has no immediate plans for any improvements for construction.

(4) Special conditions applicable to the property exist related to its location, public improvements, or the lack of improvements.

(5) The waiver will not be materially detrimental to the public welfare, public safety, use, enjoyment and value of adjacent property.

(b) The waiver when granted will not preclude any future City funded or assessment funded project. The waiver will not prevent assessments when assessments are properly applied. A waiver will be considered as a delay of improvements.

(c) When the City Engineer ~~and Assistant Director of Utilities~~ does not grant a waiver as provided in subsection (a), the applicant may, within ten (10) business days from the date of notification, appeal the decision to a panel consisting of the Director of Public Works, the Assistant City Manager of Development Services, the Director of Utilities, and the Traffic Engineer. The appeal must be in writing. If a majority of the panel concurs, such panel may waive some or all of the requirements of section s 4-6-123 through 4-6-128.

(d) Should the waiver denial of the City Engineer ~~or Assistant Director of Utilities~~ be appealed, the City Engineer ~~or Assistant Director of Utilities~~ shall transmit to the panel all the papers constituting the record by which the original waiver was denied.

(e) Any Developer or property owner who is dissatisfied with the findings of the panel may, within ten (10) business days from the date of notification of the ruling file an appeal with the City Secretary that the appeal be heard before the City Council. The City Secretary shall schedule a time for a hearing before the City Council and shall notify any person indicating an interest in the hearing.

(Ord. No. 6505, § 1, 11-7-2000; Ord. No. 7525, § 2, 4-21-15)

Sec. 4-6-123. - Streets; surfacing.

The Street(s) on which the proposed building site(s) Fronts and the side Streets at each end of the platted Block(s) in which the building site(s) is located shall be paved according to the following criteria:

(1) *Front Street; length.* A Street on which the building site fronts shall be paved through the intersections on each end of the platted Block in which the building site is located.

(2) *Side Street; length.* A side Street shall be paved from its intersection with a Street on which the building site fronts to the centerline of the Alley or rear property line.

(3) *Width.* The paving width shall be determined by the Traffic Engineer.

(Ord. No. 6505, § 1, 11-7-2000)

Sec. 4-6-124. - Curbs and gutters.

Curbs and gutters shall be installed in all paved Streets in Urban Subdivisions.

(Ord. No. 6505, § 1, 11-7-2000)

Sec. 4-6-125. - Sidewalks.

(a) Sidewalks shall be constructed and maintained within the Street Right-of-Way either adjacent to the back of curb or adjacent to the property line provided that a continuous Sidewalk connection exists according to standards established by the ~~Engineering Department~~Capital Projects & Development Engineering Department and shall be required in the following areas:

(1) *Residential.* Sidewalks constructed of Portland cement concrete or other permanent hard-surfaced material approved by the City Engineer of at least four (4) feet in width shall be provided across the entire width of the front, side, or rear of each Lot or Tract that is adjacent to Street Right-of-Way as it is developed for any residential use or purpose in any residential Zoning district as shown by the official Zoning map in the office of the Director of Community Services with the exception of schools, churches, and colleges which shall provide six (6) feet wide Sidewalks.

(2) *Central Business District.* Sidewalks shall be provided across the entire width of the front, side, or rear of each Lot abutting any public Street in the Central Business District and shall be in accordance with the Downtown Urban Design Standards.

(3) *Commercial and industrial.* Sidewalks constructed of Portland cement concrete, asphaltic concrete or other permanent hard-surfaced material approved by the City Engineer of at least six (6) feet in width shall be constructed across the entire width of the front, side, or rear of each Lot or Tract that is adjacent to Street Right-of-Way as it is developed for any use or purpose in any Office, Retail, Commercial or Industrial District as shown by the official Zoning map in the office of the Director of Community Services; provided, however, if asphaltic concrete is used, the area to be reserved for pedestrian use shall be clearly delineated on the asphaltic concrete by painted stripes, curb stops, or other approved delineation.

(b) All Sidewalks shall comply with the requirements of all applicable State of Texas and federal laws regarding accessibility to persons with disabilities.

(Ord. No. 6505, § 1, 11-7-2000; Ord. No. 7525, § 2, 4-21-15)

Sec. 4-6-126. - Alleys.

Alleys shall be constructed according to the standard requirements, specifications and procedures established by the ~~Engineering Department~~Capital Projects & Development Engineering Department.

(Ord. No. 6505, § 1, 11-7-2000; Ord. No. 7493, § 1, 10-21-2014)

Sec. 4-6-127. - Water and Sewer service.

(a) Water or wastewater Mains and Service Taps shall be installed by the Developer for the Tract of land which is being developed.

(1) Installations shall be designed and constructed according to the City of Amarillo Standard Specifications and the Development Policy Manual.

(2) Prior to installation of water or wastewater lines the Developer shall submit the installation plans to the City for review and release.

a. Upon release of the installation plans and payment by the Developer of all required frontage fees the City will issue a notice to proceed.

b. Before construction begins the Developer shall notify the City of the identity of the contractor and the date construction will begin.

c. Prior to any work being performed in a dedicated Public Right-of-Way (Street, Alley, public Utility Easement or other) the contractor shall have insurance which conforms to the City of Amarillo General Conditions of Agreement, and the Developer shall file the contractor's Certificate of Insurance with the City.

(b) If the water or wastewater Mains and Services Taps have not been installed according to the City of Amarillo Standard Specifications they shall not be accepted by the City of Amarillo Water and Sewer systems, and water and sanitary sewer services shall not be provided to any part of the Subdivision.

(c) After installation and acceptance of the water or wastewater Mains the same shall become the property of the City of Amarillo which will, following one (1) year warranty and repair period, be maintained by the City of Amarillo. Prior to acceptance, the Developer shall deliver the installations to the City of Amarillo free and clear of liens and encumbrances and shall file with the City a copy of the contractor's certification that all bills related to the construction have been paid. The Developer shall be entitled to refunds specified by the City of Amarillo Development Policy Manual.

(Ord. No. 6505, § 1, 11-7-2000; Ord. No. 7525, § 2, 4-21-15)

Sec. 4-6-128. - Drainage.

(a) *Areas subject to Flooding.* Parts of Plats or areas subject to Flooding by storm water as determined by drainage plans prepared in accordance with the requirements of the Storm Water Management Criteria Manual and approved by the ~~Engineering Department~~Capital Projects & Development Engineering Department, shall have drainage facilities adequate to alleviate such Flooding.

(1) If the following conditions exist, a Plat will not require a drainage plan:

a. All required public improvements have been installed or have been waived,

b. The Plat must contain three (3) or fewer Lots. Any additional Lots platted after the initial Plat shall require a drainage plan.

c. Foundation elevations, drainage gradients, and off-site disposal of surface waters from building sites comply with the most recently adopted building code.

(2) If the following three (3) conditions exist, a drainage plan will not be required for a Plat located within the City's Extraterritorial Jurisdiction:

a. The initial Plat is for three (3) or fewer Lots. Any additional Lots platted after the initial Plat shall require a drainage plan.

b. The platted Lots abut an existing public roadway; and

c. The area of the Plat is not within a flood hazard area designated on the most recent Federal Emergency Management Agency (FEMA) maps.

(3) Notwithstanding the provisions in paragraphs (1) and (2), above, any areas located in a non-residential Zoning District and planned to be non-residential (pursuant to the Comprehensive Plan Future Land Use and Character Map) require a drainage study regardless of the number of lots platted.

(4) If, in the opinion of the City Engineer, special conditions affect the proposed site that could adversely affect drainage or increase the risk of flooding to the site or any adjacent site, the City Engineer may require a drainage plan for a proposed Plat.

(b) *Conditions warranting refusal of building permit.* If the ~~Engineering Department~~Capital Projects & Development Engineering Department determines that drainage facilities cannot be built to adequately alleviate Flooding, no building permits shall be issued for construction in such areas.

(c) *Flood hazard ordinance and Storm Water Management Criteria Manual.* Improvements must comply with the adopted ordinances and policies regarding Flooding.

(d) *Drainage System.*

(1) The drainage system shall be constructed to the requirements and standards of the Storm Water Management Criteria Manual.

(2) Stormwater detention ponds located within the Airport Overlay District Wildlife Hazard Zone shall be designed, engineered, constructed, and maintained for a maximum 48–hour detention period after the design storm and remain completely dry between storms, unless the Director of Aviation finds that, due to its location or other factors, the pond likely will not create a Hazard to Air Navigation.

(e) *Drainage outside of Plat.* Any public drainage Easement necessary to serve a Plat but outside the boundaries of the Plat shall be dedicated by the Developer of the Plat or arrangement made with the City to obtain such Easement at no cost to the City.

(f) *Drainage onto other property.* No storm water may be drained from a Lot, Tract or Plat onto an adjacent property without providing the necessary dedicated public or private drainageways.

(Ord. No. 6505, § 1, 11-7-2000)

Secs. 4-6-129.—- Parkland Dedication.

(a) *Purpose, applicability, and exemptions.*

(1) It is hereby declared that parks and recreational lands and facilities are essential for the health, safety, and welfare of the public.

(2) The purpose of this Section is to ensure the increase in demand for Neighborhood Parks and Community Parks is met in proportion to and as created by additional residents and dwelling units resulting from residential subdivisions.

(3) This Section is enacted in accordance with the home rule powers of the City, granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code, Chapter 212, as amended.

(4) It is further declared that the most viable and direct means to provide for such essential public facilities is through the planning and development of residential subdivisions.

(5) Accordingly, new residential subdivisions subject to the requirements of this Section are required to provide, through dedication or alternative means, Neighborhood Parks and Community Parks sufficient to meet the proportionate demand created by the subdivision and resulting development.

(6) Therefore, except as otherwise provided, subdivisions of land for residential purposes, that result in twenty-five (25) or more lots being created, must comply with this Section.

(7) The division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated, are exempt from this Section, pursuant to Texas Local Government Code, Section 212.004, Plat Required, Subchapter A, Regulation of Subdivisions.

(b) *Level of Service and Amenity Improvements*.

(1) Generally.

a. Each subdivision subject to this Section is required to mitigate the need for new Neighborhood Parks and Community Parks, up to, but not in excess of, its roughly proportionate demand, as provided here.

b. In no case may the City require mitigation under this Section, as a condition of subdivision approval, in excess of the roughly proportionate amount required to offset the

impacts of a proposed subdivision's demand for Neighborhood Parks and Community Parks. However, the City may enter an agreement for public facilities, proffered by an applicant ~~pursuant to section 4-6-66~~, including a request to provide excess park mitigation to facilitate future development, to accommodate the applicant's subdivision or development configurations, to request City financial participation, or other matters allowed by city code and state law.

c. The Director of Planning and Development Services, in consultation with the Parks Director, may require information of the applicant related to the proposed development to determine compliance with this Section.

(2) Level of Service.

a. Generally. Required mitigation must be sufficient to maintain the current level of service for Neighborhood Parks and Community Parks, including amenity improvements associated with these categories of active parks.

b. Park lands.

1. Subdivisions subject to this section must provide mitigation sufficient to maintain the current acreage per 1,000 population as determined by the City Parks Director in writing, or as adopted by the City Council in a completed parks master plan.

2. Written determinations by the Parks Director must illustrate the current level of Neighborhood Parks and Community Parks based on the most recent City data.

3. Neighborhood Parks must be located not further than one (1) mile from any lot on the proposed subdivision plat, as measured along public road or pedestrian ways.

4. Community Parks must be located not further than two (2) miles from any lot on the proposed subdivision plat, as measured along public roads.

(3) Amenity improvements.

a. Neighborhood Parks must include the following amenities:

1. Site infrastructure (grading, landscaping, irrigation, trees, lighting, utilities, open space improvements, sidewalks)
2. Small play structures for ages 2-5 and 5-12
3. Open turf play area
4. 2 sports courts
5. 1 youth rectangular and/or diamond ballfield (overlay is acceptable)
6. Medium picnic shelter (4 tables)
7. Access paths
8. Site identification and regulatory signage
9. Amenities (trash receptacles, benches, bike racks, barbecues, dog waste stations, fencing, etc., sufficient for size of site)
10. On-street parking

b. Community Parks must include the following amenities:

1. Site infrastructure (grading, landscaping, irrigation, trees, lighting, utilities, open space improvements, sidewalks)
2. Destination playground for ages 2-5 and 5-12 with inclusive play elements and shade for
3. Open turf play area
4. 4 sports courts
5. 2 full size rectangular fields (no overlay; may be striped for multiple sports);
6. 1 full size diamond ballfield
7. Large picnic shelter (12 tables, barbecue, food prep area, sink);

8. additional 10-12 tables
9. 2-4 additional recreation elements (depending on size of site)
10. Dog park (separate area for large dogs and small dogs)
11. Access paths and loop trail (walking/biking)
12. Site identification and regulatory signage at each entry
13. Amenities (trash receptacles, benches, bike racks, barbecues, dog waste stations, fencing, etc., sufficient for size of site)
14. Restrooms and drinking fountains
15. Off-street parking

(c) *Manner of Compliance*.

(1) *Preferred manner of compliance*.

a. The preferred manner of complying with this Section is through the provision of improved Neighborhood Parks and Community Parks within a proposed subdivision that are dedicated to the City for ongoing maintenance following completion of park improvements.

b. However, at the applicant's request, the City may approve compliance with this Section through the alternatives below pursuant to the terms of an agreement for public facilities.

(2) *Land dedications and alternative means of compliance*.

a. *Land Dedication*.

1. Improved parks required by this Section may be dedicated to the City, or other responsible party approved by City Council, sufficient to ensure the land's continued use as a park, as required by this section.

2. Dedication shall be by transfer deed or other instrument recommended by the City Attorney and approved by the City Council and shown as "Dedicated Parkland" on preliminary and final recorded plats.

b. *Private Lands*.

1. Improved acreage required by this Section may remain in private ownership, only by the property owner's grant of an easement in favor of the City of Amarillo ensuring complete and continued public access to the land for the park purposes and confirmation of ongoing compliance and maintenance.

c. *Monetary contributions*.

1. In conformance with the standards below, the City may accept proportionate share monetary contributions proffered by an applicant sufficient to meet the amenity or level of service requirements of this Section for park acreage.

2. If monetary contributions are proposed as a form of compliance by the applicant, the City must:

(i) Identify opportunities to expend contributions in accordance with this section to the reasonable benefit the occupants of the proposed subdivision, including through expansion of the Neighborhood Parks and Community Parks systems.

(ii) The City Council will consider:

i. the proximity of a proposed subdivision to an identified area of need;

ii. the adjacency of existing, improved, and planned parks;

iii. the acreage and improvements sufficient to meet the needs of the subdivision's area of benefit;

iv. whether connectivity will be improved through expenditure of monetary contributions, and

v. other factors related to the resulting level of service for Neighborhood Parks and Community Parks.

d. *Fees-in-lieu.* Monetary contributions, for land or amenity improvements, may be made by an applicant pursuant to a generally-applicable fee schedule, supported by a master plan and proportionality study adopted by the City Council, if applicable.

(d) *Applicant commitment to mitigation.*

(1) Mitigation provided by an applicant, third party, or, if applicable, by the City, must be set forth in an agreement for public facilities, as provided in section 4-6-65,[KC5] must be included on the recorded final plat, and, if recommended by the City Attorney, by other appropriate legal instrument.

(2) Commitments by an applicant to provide park improvements and amenities must be guaranteed by financial assurances required by City code and as provided by agreement with the City.

(3) Land to be owned and maintained by the City or other public entity for park purposes must be legally transferred and accepted prior to recordation of a final plat of the proposed subdivision.

(4) Applications for subdivision subject to this Section must include the following:

a. A draft agreement for public facilities;

b. Illustration on the proposed preliminary plat of the location and extent of proposed Neighborhood Parks and Community Parks, if located within the lands proposed for subdivision, including legends, measurements, and other verification of compliance with this Section;

c. If applicable, a site map illustrating Neighborhood Parks or Community Parks proposed to be located outside the subject subdivision, including legends, measurements, and other verification of compliance with this Section;

d. A proposed schedule and plans for making necessary improvements associated with the parks, including, as applicable:

1. Safe multimodal public access;

2. Water and wastewater provision to the site;

3. The location of and schedule for providing public facilities to the park sites;

4. Park amenities, improvements, and proposed land dedications;

5. Grading and clearing of vegetation;

6. Provision of adequate accessibility, pursuant to the Americans with Disabilities Act and other applicable codes or laws;

7. Proposed third-party maintenance agreements; and

8. Other actions required to complete park mitigation and open access to the public;

e. A signed letter of commitment from necessary third-parties describing the obligations of each party under the proposed mitigation;

f. If mitigation includes property remaining in private ownership:

1. A plan ensuring continued public access to the property for park purposes, consistent with City codes and approvals,

2. Recreational and maintenance easements,

3. Legally-binding assurances by third-parties guaranteeing continued maintenance, safety, and a means for the City to verify compliance with the terms of the agreement and City approvals.

(5) Timing of improvements.

a. Obligated park amenity improvements must be completed by the applicant within the timeframe set forth in the agreement for public facilities or subsequent amendment thereto.

b. However, unless expressly provided otherwise by agreement, park improvements must be completed not later than the time of issuance of the final residential building permit for the subdivision or five years from the issuance of the first residential building permit, whichever occurs first.

c. Failure to comply with this provision may result in forfeiture of financial guarantees as provided herein or by agreement.

d. Grounds for extension of time, by City Council agreement, include where building permits have been issued for fewer than fifty percent (50%) of the lots in an approved subdivision after passage of at least five (5) years from the issuance of the first permit.

(e) *City commitments.* Upon approval of an agreement under this section, the City will undertake steps necessary to ensure park lands, improvements, and amenities are available to meet the demand of new residents of the subdivision in a timely manner, including:

(1) Revising necessary capital, budget, or master plans to reflect the approved subdivision and any commitments of the City thereunder or by agreement;

(2) Undertaking procurement and contracting processes necessary to effectuate the completion of parks under this section and by agreement; and

(3) Ongoing compliance monitoring to ensure the completion of park obligations, in accordance with this Section, an approved agreement, and the approvals of the City associated with the subdivision.

4-6-130 through 4-6-140. - Reserved.

DIVISION 3. - STREET ADDRESSES AND NAMES

Sec. 4-6-141. - Official addressing system; authority to assign addresses; records.

(a) The Building Official shall assign Street addresses to Structures or Lot and Block numbers according to the policies and procedures adopted

by the City. The Building Official is authorized to assign an address to each structure or Lot situated on Streets within the City limits and to assign Block numbers to Arterial Streets both within the City limits and the City's Extraterritorial Jurisdiction.

(b) The Building Official shall maintain an accurate record of all addresses and Block number assigned according to subsection (a).

(Ord. No. 6505, § 1, 11-7-2000)

Sec. 4-6-142. - Multiple-family dwelling complexes.

All apartment and multiple-family housing unit projects shall provide on-site identification for individual housing units and housing complex building (structures consisting of multiple individual housing

units). Such identification is for the purpose of providing for ease of emergency and public service access to the project or development. Identification shall be provided as follows:

(1) Each individual housing unit shall be identified by letter or numbers, or both, on or immediately adjacent to each unit entry. The letters and numbers shall be of permanent, weatherproof materials no less than one and one-half (1½) inches in height.

(2) Each individual housing unit building or complex shall be identified by letters or numbers, or both, on or immediately adjacent to each building such that the identification is clearly visible from abutting Streets, Alleys, firelanes, vehicular accessways and parking areas. The letters and numbers shall be no less than six (6) inches in height and must be illuminated to be readily visible during hours of darkness.

(3) Housing projects or developments having more than eight (8) individual housing units shall provide a permanent and weatherproof exterior site locator sign or map. The locator sign or map shall be illuminated to be readily visible during hours of darkness and located at or in the immediate vicinity of the primary public entrance to the project. Projects with more than one (1) public entrance point may be required to provide additional exterior site locator signs or maps. All exterior site locator signs or maps shall be of sufficient scale to allow identification from a vehicle and shall include the housing unit project layout and location and identification of individual housing unit buildings and individual housing units.

(4) The Building Official or his designated agent shall review and approve all multiple-family housing unit project or development identification prior to installation.

(5) All project or development identification required in this section, including such requiring illumination, shall be maintained in good repair and condition at all times by the project owner or management, or person in effective control.

(6) Compliance with this section shall be mandatory for all existing and new construction of multiple-family housing unit projects or developments. New construction projects must have all required identification installed prior to receipt of a certificate of occupancy. Existing projects must have all required identification installed no later than one (1) year from the effective date of the ordinance from which this chapter is derived.

(Ord. No. 6505, § 1, 11-7-2000)

Sec. 4-6-143. - Appeals.

Any owner who objects to the Street address number assigned to his property by the Building Official in accordance with this article may, within ten (10) business days from the date the number is assigned, appeal to a panel consisting of the Assistant Director of Development Services, the Director of Public Works and the Traffic Engineer by filing a written notice of appeal with the Building Official. Any notice of appeal shall be considered according to the following procedure:

(1) The notice of appeal shall include the Street address number assigned by the Building Official and shall clearly and fully state the appellant's objections concerning the designated Street address.

(2) Upon receiving the notice of appeal, the panel shall schedule a date for a hearing of the appeal at its earliest convenience.

(3) Upon a hearing of the appeal, the panel shall determine whether the Structure or property is correctly addressed and shall advise the Building Official and appellant in writing of the decision and reasons pertaining to such.

(4) If the appellant is dissatisfied with the findings of the panel, such person may, within ten (10) business days from the date of notification of the ruling, file an appeal request with the City Secretary that the appeal be heard and considered by the City Council. The City Secretary shall schedule a time for a hearing before the City Council and shall notify any person indicating an interest in the hearing.

(5) Upon a hearing of the appeal, the City Council shall determine whether the Structure or Lot is correctly numbered and shall enter an order by motion and vote in the minutes of the City Council meeting declaring the correct Street address number for the Lot or Structure.

(Ord. No. 6505, § 1, 11-7-2000; Ord. No. 7525, § 2, 4-21-15)

Sec. 4-6-144. - Definitions.

In this division:

Commemorative street name signs are additions to the street name and will not change the street address. Existing street name shall be retained and a supplemental sign or plaques shall be installed. Commemorative street name signs shall consider the same criteria for naming of streets.

Directional prefix means an indicator of the direction a roadway passes. For example, in the street name "North Franklin Road," North is the directional prefix.

Directional suffix means an indicator of address location. For example. in the address "137 Franklin Road W," W is the directional suffix.

Functional classification means the systematic classification of roadways in categories according to their access and movement attributes. Minor streets, residential and community collectors, minor and principal arterials, and freeways and expressways are functional classifications of roadways. Minor streets usually provide access to individual lots. Collector streets provide access between the minor streets and arterials. Arterials link areas of the City and carry traffic to freeways and expressways, which primarily provide movement to locations throughout the region.

Historic street name means a street name that commemorates:

a. A person who significantly contributed to the cultural, economic, social, religious, or political heritage of the City;

b. A site or area where there occurred historic events which significantly contributed to the cultural, economic, social, religious, or political heritage of the City; or

c. A person or family founding or traditionally associated with the area where the street is located.

Label means the portion of a street name that attaches a creative identity to a roadway. For example, in the street name "Franklin Road," Franklin is the label reserved.

Major roadway means a roadway on the City's thoroughfare plan.

Minor roadway means a roadway not on the City's thoroughfare plan.

Roadway means any official vehicular course for travel, regardless of length or service characteristics.

Street name means the street label together with the street-type designation, but does not include a directional prefix or suffix. For example, in the street identified as "North Franklin Road," Franklin Road is the street name.

Type means the portion of a street name that identifies the kind of roadway, but does not necessarily attach a functional classification. For example, in the street name "Franklin Road," Road is the type.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-145. - General provisions.

(a) Only public street names may be changed by the process contained in this division.

(b) A street name change application may be initiated only by:

(1) An owner of property abutting the street;

(2) The director of the planning department if necessary to address public safety concerns; or

(3) A City Council member with concurrence by one (1) other City Council members.

(c) The definitions and standards in this division apply to both original street naming and street name changes. Applicable procedures for assigning original street names are contained in Article II, "Platting and Subdividing."

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-146. - Application.

(a) An application for a street name change must be filed at the development services counter on the application form furnished by the planning department. The application must include the following:

(1) The application fee. The City Council may waive the application fee if the City Council finds that payment of the fee would result in substantial financial hardship to the applicant.

(2) A compelling statement of the reasons supporting a street name change.

(3) The existing and proposed street names.

(4) Noting choice of permanent street name change versus commemorative street name sign being added to an existing street.

(5) The roadway's status as an arterial street or a minor roadway.

(6) For all applications except those made by the planning department to address public safety concerns, a petition indicating that at least fifty-one (51) percent of the owners of all lots abutting the street section proposed to be changed, favor the name change.

(7) A vicinity map showing the location of the street.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-147. - Standards.

(a) *In general.*

(1) A proposed label in a street name may not duplicate any existing label.

(2) A proposed street name may not be similar to an existing street name so that it creates confusion or an obstacle to the provision of emergency services.

(3) A street name that uniquely identifies a particular tract, tenant, or product name is prohibited.

(4) A street name may not contain more than fourteen (14) characters providing, however, that the street-type designation may be abbreviated to comply with this requirement.

(5) Hyphenated and apostrophized street names are prohibited.

(6) Attendance by the applicant(s) is required at any public hearings scheduled in order to present their case and answer any questions about their request for a name change.

(b) *Number of names for a roadway.*

(1) Except as provided in this subsection, a roadway must have only one (1) name.

(2) Different names must be given to the same roadway under the following conditions:

a. If a minor roadway deviates from its predominant course at a ninety (90) degree angle for a distance of more than three hundred (300) feet, a different name must be used for the predominant course and for each portion of the roadway deviating from the predominant course.

b. If two (2) segments of a minor roadway are separated by an intervening land use that prohibits vehicular passage, and if future connections of the street segments through the use is unlikely, the segments of roadway on each side of the intervening use must have different names.

c. If a street is interrupted and offsets more than one hundred fifty (150) feet at a cross street, different names must be given to the offset street segments.

(c) *Historic street names.* A historic street name may not be changed.

(d) *Street type and label designation.*

(1) A street name may not contain more than one (1) street-type designation. For example, the street name "John Doe Place Road" is not permitted.

(2) The designation of the street type must be based upon the features of the roadway, such as the traffic volumes carried by the roadway, its physical design and construction characteristics, and its role in the surrounding street network.

(3) No street name may have more than two (2) labels before the street-type designation.

(e) *Directional prefix and suffix.*

(1) A directional prefix is permitted only when the roadway intersects one of the official baselines used by the City.

(2) A directional suffix is permitted as an indicator for address location.

(f) *Guidelines.*

(1) A street name may be based upon physical, political, or historic features of the area.

(2) The name of a subdivision and names thematically related to the name of a subdivision may be given to a street within the subdivision.

(g) *Allowed reasons for street name change.*

(1) To establish continuity of a street name, including establishing one (1) name for a roadway with staggered center lines that is commonly traveled as a single thoroughfare;

(2) To eliminate duplication of name spelling or phonetics;

(3) To correct a misspelling;

(4) To enhance ease of location;

(5) For consistency with the street numbering system designation, including compass direction;

(6) To provide a necessary roadway designation, including: "street," "road," "lane," "circle," "drive," or "boulevard;"

(7) To honor a person, place, institution, group, entity, or event (A street name commemorating a person or a historic site or area is prohibited until at least two (2) years after the death of the person to be honored or the occurrence of the event to be commemorated); or

a. Names honoring a person, place, institution, group, entity, or event should be based on one (1) or more of the following criteria:

1. Made lasting and significant contributions to the protection of natural or cultural resources of the City of Amarillo;

2. Made substantial contributions to the betterment of the City of Amarillo which has positively impacted the lives of citizens of the City of Amarillo,

3. Be associated to an economic development or redevelopment activity in fulfillment of the City's mission;

4. Commemorates a significant historical event;

5. Contributed outstanding civic service to the City for a minimum period of ten (10) years.

(8) To enhance a neighborhood through the association of a street name with its location, area characteristics, and history.

(h) *Waiver.* The City Council, by a three-fourths vote of its members, may waive any of the standards contained in this section when waiver would be in the public interest and would not impair the public health, safety, or welfare.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-148. - Review of application.

(a) Within ten (10) working days after receipt of a complete application for a street name change, the planning department shall notify and request comment regarding the potential impacts of the name change on any and all affected City departments, public utilities, and others.

(b) The planning department shall formulate a recommendation on the proposed street name change based upon review of the application, the standards listed in section 4-6-147, and the comments received per this section.

(c) A public engagement meeting may also be held prior to Planning and Zoning or City Council consideration in order to gather additional public input on the proposed name change.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-149. - Hearing before the Planning and Zoning Commission.

(a) After review of the application, the planning department shall set the application for hearing by the Planning and Zoning Commission.

(b) Notice of the public hearing before the Planning and Zoning Commission must be advertised in the official newspaper of the City no fewer than fifteen (15) days before the date of the hearing. The planning department must also send written notice of the public hearing to abutting property owners as ownership appears on the last approved ad valorem tax roll no fewer than fifteen (15) days before the date of the hearing. Notification signs must be posted along the street for no fewer than fifteen (15) days before the date of the hearing.

(c) The Planning and Zoning Commission shall make a recommendation to the City Council of either approval or denial of the application based upon the testimony presented at the public hearing, the recommendations of the planning department, and the standards contained standards listed in section 4-6-147.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-150. - Hearing before City Council.

(a) If the Planning and Zoning Commission recommends denial of a street name change, the action of the Planning and Zoning Commission is final unless the applicant files a request for appeal to the City Council within ten (10) days of the hearing at which the action was taken. The request for appeal must be in writing and must be submitted to the planning department.

(b) The planning department shall schedule a City Council hearing on all applications for street name change in which the Commission recommends approval, and in all applications in which the Commission recommends denial if an appeal is requested in accordance with this section.

(c) Notice of the public hearing before the City Council must be advertised in the official newspaper of the City no fewer than fifteen (15) days before the date of the hearing. The planning department must also send written notice of the public hearing to abutting property owners as ownership appears on

the last approved ad valorem tax roll no fewer than fifteen (15) days before the date of the hearing. Notification signs must be posted along the street for no fewer than fifteen (15) days before the date of the hearing.

(d) The favorable vote of three-fourths of all members of the City Council is required if:

(1) The street name change has been recommended for denial by the Planning and Zoning Commission; or

(2) A written protest against the street name change has been signed by the owners of twenty (20) percent of all lots abutting the street.

(e) The City Council shall either approve or deny the application based upon the testimony presented at the public hearing, the recommendations of the Planning and Zoning Commission, the planning department, and the standards contained listed in section 4-6-147.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-151. - Notification of name change.

If the request for a name change is approved by the City Council, the planning department shall notify those listed in section 4-6-149 and others requesting notification of the name change. The planning department shall send written notice of the City Council's action to abutting property owners.

(Ord. No. 7683, § 1, 11-7-17)

Sec. 4-6-152. - Effective date of the name change.

Provided that all required fees and costs for sign materials have been paid by the applicant, a name change approved by the City Council takes effect sixty (60) days after the date of its approval unless City Council sets a later effective date.

(Ord. No. 7683, § 1, 11-7-17)

DIVISION 4. - NAMES OF CITY-OWNED PROPERTY AND FACILITIES

Sec. 4-6-153. - Definitions.

Land and facilities includes parks, airport facilities, recreation facilities, buildings, streets, and the designation of commemorative street names and plaques that are compatible with community interest and will enhance the values and heritage of the City of Amarillo.

Historic names means a name that commemorates:

a. A person who significantly contributed to the cultural, economic, social, religious, or political heritage of the City;

b. A site or area where there occurred historic events which significantly contributed to the cultural, economic, social, religious, or political heritage of the City; or

c. A person or family founding or traditionally associated with the area where the street is located.

(Ord. No. 7684, § 1, 11-7-17)

Sec. 4-6-154. - Application.

An application for a land or facilities name change must be filed with the City Secretary on an application form furnished by that department. The application must include the following:

(1) The application fee. The City Council may waive the application fee if the City Council finds that payment of the fee would result in substantial financial hardship to the applicant.

(2) Fees associated with administration and hard costs for the sign or plaque placement will be at the expense of the applicant, such as sign procurement and installation costs. The payment of the application fee is required at time of application submission.

(3) A statement of the reasons supporting a name change. The applicant shall be able to provide clear evidence that the individual to be honored has made a significant contribution to the economic vitality and/or quality of life in the Amarillo community.

(4) Commemorative plaques are an alternative to naming/renaming a facility. These plaques can be used to name a common area, such as a conference room in a City facility, or a gathering place within a City park.

(5) The existing and proposed name(s).

(Ord. No. 7684, § 1, 11-7-17)

Sec. 4-6-155. - Standards.

(1) *In general.*

a. The applicant shall be able to provide clear evidence that the individual to be honored has made a significant contribution to the economic vitality and/or quality of life in the Amarillo community.

b. Naming shall begin early in the development and/or acquisition as possible.

i. Municipal facilities may be given the same name as a school site, where the sites abut one another;

ii. Subdivision names may be given where park lands are adjacent to or lie within the subdivision;

iii. Municipal recreation centers that are a part of or lie within the boundaries of a park shall bear the name of that park unless the park name cannot be incorporated in the facility name, or there is a compelling reason for the center to be named under the guidelines and criteria in this section.

c. Names should be appropriate to the park, City-owned building, or recreational facility by reflecting the native wildlife, history, flora, fauna, geographic area, or natural geologic features related to the City of Amarillo.

d. Names can be from significant historical events, cultural attributes, a local landmark or for a historical figure.

e. Areas that can be recognized include: Points of entry, walkways, trails, room or patio within a City-owned building, recreational facilities such as group picnic areas, and physical features.

f. Names which reflect the City's ethnic and cultural diversity are encouraged. Signage shall be in English.

g. The renaming of land or facilities may be considered if exceptional circumstances exist, but should not be a common practice. In such circumstances, care must be taken to avoid renaming because the purpose of the prior naming had become obscured over time (and thus eliminate appropriate recognition or honor).

h. This division shall not supersede the City's right to seek and receive revenue by contracting the naming rights related to any facilities where such option is appropriate.

(2) *Guidelines and criteria.*

a. Names honoring deceased individuals, groups, or families should be based on one (1) or more of the following criteria:

i. Made lasting and significant contributions to the protection of natural or cultural resources of the City of Amarillo;

ii. Made substantial contributions to the betterment of the City of Amarillo which has positively impacted the lives of citizens of the City of Amarillo;

iii. Be associated to an economic development or redevelopment activity in fulfillment of the City's mission;

iv. Commemorates a significant historical event;

v. Contributed outstanding civic service to the City for a minimum period of ten (10) years;

vi. Prohibited until at least two (2) years after the death of the person to be honored or the occurrence of the event to be commemorated.

b. Names of living persons shall be considered only under one or more of the following circumstances:

i. The honoree contributed fifty (50) percent or more of the cost of a major facility. A contribution is not required to be monetary (example: land or building);

ii. The honoree initiated or contributed major time to the establishment of the City project;

iii. The overwhelming belief (public opinion) that the honoree would be likely be honored for that facility posthumously;

iv. No other individual now living has, or is likely to have, greater public support for being honored;

v. The honoree has given extraordinary service to the City and to the community;

vi. The honoree has attained national or international prominence and achievement.

c. Naming after an individual who has served as a City official or as a City employee shall occur after the person has separated from City service and should be based on one (1) or more of the following criteria:

i. Made contribution over and above the normal duties required by their positions;

ii. Had a positive impact on the past and future development of programs, projects, or facilities in the City of Amarillo;

iii. Made significant volunteer contributions to the community outside the scope of their job;

iv. Had exceptionally long tenure with the City of Amarillo; a minimum of ten (10) years;

v. Significant public support for a memorial to the City official or City employee on the occasion of their death or retirement.

d. Waiver. The City Council, by a three-fourths vote of its members, may waive any of the standards contained in this section when waiver would be in the public interest and would not impair the public health, safety, or welfare.

(Ord. No. 7684, § 1, 11-7-17)

Sec. 4-6-156. - Review of application.

(a) Within ten (10) working days after receipt of a complete application for a name change, the City Secretary shall assign the application to the appropriate department based on the facility type. The department shall notify and request comment regarding the potential impacts of the name change on any and all affected City departments, public utilities, and others.

(b) City staff shall formulate a recommendation on the proposed name change based upon review of the application, the standards in section above, and the comments received from those notified.

(c) A public engagement meeting may also be held prior to Commission or advisory board, or City Council consideration in order to gather additional public input on the proposed name change.

(Ord. No. 7684, § 1, 11-7-17)

Sec. 4-6-157. - Hearing before Commission or Advisory Board.

(a) Depending on the type of facility name change being requested, the application will be forwarded to the appropriate Commission or Advisory Board for their recommendation. For example, a park name would go to the Parks and Recreation Board, and airport name would go to the Airport Advisory Board.

(b) Notice of the public hearing before the Planning and Zoning Commission must be advertised in the official newspaper of the City no fewer than fifteen (15) days before the date of the hearing. The planning department must also send written notice of the public hearing to abutting property owners as ownership appears on the last approved ad valorem tax roll no fewer than fifteen (15) days before the date of the hearing. Notification signs must be posted along the street for no fewer than fifteen (15) days before the date of the hearing.

(c) The Commission or Advisory Board shall make a recommendation to the City Council of either approval or denial of the application based upon the testimony presented at the public hearing, the recommendations of City staff, and the standards contained in section 4-6-155.

(Ord. No. 7684, § 1, 11-7-17)

Sec. 4-6-158. - Hearing before the City Council.

(a) If the Commission or Advisory Board recommends denial of a name change, the action of the Commission or Advisory Board is final unless the applicant files a request for appeal to the City Council within ten (10) days of the hearing at which the action was taken. The request for appeal must be in writing and must be submitted to the City Secretary.

(b) The City Secretary shall schedule a City Council hearing on all applications for a name change in which a Commission or Advisory Board recommends approval, and in all applications in which a Commission or Advisory Board recommends denial if an appeal is requested in accordance with this section.

(c) Notice of the public hearing before the City Council must be advertised in the official newspaper of the City no fewer than fifteen (15) days before the date of the hearing.

(d) The favorable vote of three-fourths of all members of the City Council is required if the name change has been recommended for denial by the Commission or Advisory Board; or

(e) The City Council shall either approve or deny the application based upon the testimony presented at the public hearing, recommendations of City staff, the recommendation of the Commission or Advisory Board, and the standards contained in section 4-6-155.

(Ord. No. 7684, § 1, 11-7-17)

Secs. 4-6-159—4-6-175. - Reserved.

ARTICLE IV. - PUBLIC IMPROVEMENT MAINTENANCE OR USE

Sec. 4-6-176. - Citation.

This article shall be known and may be cited as the public improvement maintenance ordinance of the City.

(Code 1960, § 21-45; Ord. No. 5627, § 2, 9-23-86)

Secs. 4-6-177, 4-6-178. - Reserved.

Editor's note— Ord. No. 6560, § 1, adopted Oct. 9, 2001, deleted §§ 4-6-177, 4-6-178 which pertained to excavations and obstructions of public property and issuance of permit for excavations and obstructions and derived from 1960 Code, §§ 21-46, 21-47; Ord. No. 5627, § 2, adopted Sept. 23, 1986; Ord. No. 5843, § 1, adopted Dec. 19, 1989; Ord. No. 5999, § 1, adopted Feb. 18, 1993; Ord. No. 6123, § 1(AA), adopted Dec. 27, 1994.

Sec. 4-6-179. - Excavation permit for driveways, approaches and public sidewalk curb ramps.

(a) Curb removal permits must be obtained from the Traffic Engineer for all driveway, approach and public sidewalk curb ramp construction requiring the removal of curbs.

(b) The person obtaining a curb removal permit shall pay a fee of twenty-five dollars ($25.00) for each permit. If a curb removal is undertaken without a permit, the subsequent permit for that removal shall be fifty dollars ($50.00), in addition to any fine, cost, or other penalty assessed for that violation.

(c) Each person obtaining a curb removal permit shall comply with the Americans With Disabilities Act (ADA) guidelines for new and alteration construction.

(Code 1960, § 21-48; Ord. No. 5627, § 2, 9-23-86; Ord. No. 6123, § 1(BB), 12-27-94; Ord. No. 6688, § 1, 10-28-2003)

Sec. 4-6-180. - Construction and reconstruction; sidewalks, driveways.

(a) Construction and reconstruction of Sidewalks, driveways and driveway approach aprons shall be in accordance with standards and specifications set forth by the City Engineer.

(b) The number, location, and width of driveway approach openings shall be in accordance with standards of the Driveway and Parking Manual as published alone or included in the Development Policy Manual.

(Code 1960, § 21-49; Ord. No. 5627, § 2, 9-23-86; Ord. No. 6123, § 1(CC), 12-27-94; Ord. No. 6688, § 2, 10-28-2003)

Sec. 4-6-181. - Public safety; barricading.

(a) Any person acquiring a permit in accordance with this division shall be fully responsible for safeguarding persons and property from damages or injury.

(b) Any person acquiring a permit in accordance with this division shall place barricades and other traffic-control devices around all obstacles and impairments to the Public Right-of-Way as dictated in the Texas Manual on Uniform Traffic Control Devices for Streets and Highways (Texas Department of Transportation). Should the permittee fail to properly barricade the excavation or obstruction, the City may place the necessary barricades at the expense of the permittee. Such expense may be chargeable against the bond required by section 4-6-177.

(c) No person shall place any kind of obstruction or barricade for any duration of time on any portion of the Public Right-of-Way without complying with subsections (a) and (b).

(d) Each day that an obstruction prohibited by subsection (c) remains on any Street, Alley or Sidewalk constitutes a separate offense.

(Code 1960, § 21-50; Ord. No. 5627, § 2, 9-23-86; Ord. No. 6123, § 1(DD), 12-27-94)

Sec. 4-6-182. - Prohibited activities and uses on public right-of-way.

The following activities, uses, conditions or occurrences on the Public Right-of-Way shall be deemed unlawful:

(1) The operation of any machinery having tracks, feet or pulling lugs over or along any paved Streets or Alleys;

(2) The hauling of gravel, brick, sand, concrete, ready-mix concrete or mortar in such a manner to scatter or waste these substances onto any Streets, Alleys or Sidewalks;

(3) To drop, spill or allow to leak out of any tank or vessel, whether connected with a motor vehicle or otherwise, any gasoline or other oil or petroleum base substance onto any Street, Alley or Sidewalk;

(4) The discharging of any odorous water, sewage, wastewater, waste oils, kitchen grease, kitchen slop water, mop water or other offensive or hazardous substance onto any Public Right-of-Way;

(5) To display and sell goods, wares or merchandise or to serve or permit to be served any kind of food or drinks in or upon any Street, Sidewalk or Alley;

(6) To place, locate, store, construct, install or maintain any Structure, Building, object, vehicle, device, fence except as provided in Division 7. Fences and Walls, section 4-10-276(c), wall, or other material on or within any Public Right-of-Way; Trees and other living, domesticated vegetation located within the parkway area of a paved Street are exempt from this requirement;

(7) To cast, place or store any animal, offal, garbage, trash, refuse or debris into or upon any Street, Alley, Sidewalk, Street gutter or other Public Right-of-Way.

(Code 1960, § 21-51; Ord. No. 5627, § 2, 9-23-86; Ord. No. 6389, § 1, 12-29-98)

Sec. 4-6-183. - Maintenance of public right-of-way.

(a) It shall be unlawful for any owner, lessee, tenant or occupant of any Building or Premises within the City to allow the gutters, Sidewalks, Alleys or Easements adjacent to such Building or Premises to become littered, clogged or filled with any substance, whether liquid or solid, or with weeds, trash or debris.

(b) Any owner, occupant or tenant of any Lot or Parcel of land located within the City shall maintain or cause to maintain the area of land located between the property line of the Lot, Tract or Parcel and the adjoining curb, or if no curb exists, then within ten (10) feet toward the Street from the property line.

(Code 1960, § 21-52; Ord. No. 5627, § 2, 9-23-86)

Sec. 4-6-184. - Snow removal.

(a) Any person in charge or control of any Building or Lot, Tract or Parcel of land abutting a Sidewalk shall remove or cause to be removed snow and ice on the Sidewalk such that an unobstructed, clear and nonhazardous path of no less than thirty-six (36) inches in width is maintained.

(b) Except as provided in subsection (d), snow and ice shall be removed from Sidewalks in all business Districts within the City by two (2) business hours (the hours between 8:00 a.m. and 5:00 p.m., on any business day) after the cessation of any fall of snow, sleet or freezing rain or by the beginning of business hours of the next business day.

(c) Except as provided in subsection (d) hereof, snow and ice shall be so removed from all other Sidewalks within the City on the same day of the cessation of any fall of snow, sleet or freezing rain or within the first two (2) hours of daylight after the cessation of any such fall, whichever period is longer.

(d) Snow and ice will be removed from all other Sidewalks within twenty-four (24) hours of cessation of any fall of snow, sleet or freezing rain. However, if snow and ice on a Sidewalk has become so hard that it cannot be removed without likelihood of damage to the Sidewalk the owner will, within the time specified above, put enough sand or other abrasive on the Sidewalk to make travel reasonably safe. As soon thereafter as weather permits, the Sidewalk shall be thoroughly cleaned.

(Code 1960, § 21-53; Ord. No. 5627, § 2, 9-23-86)

Sec. 4-6-185. - Obstruction of streets, alleys, sidewalks by trees and other vegetation.

It shall be unlawful for any owner, occupant or person in charge of any Premises to:

(1) Allow the branches of any Tree to extend over or into a public Street or Alley at a height less than fourteen and one-half (14½) feet;

(2) Allow the branches of any Tree to extend over a public sidewalk at a height of less than seven (7) feet.

(3) Allow any shrubbery or similar vegetation to extend into or over any public Street, Alley or Sidewalk blocking or hindering pedestrian or vehicular access.

(4) The City may cut, trim, or remove any Tree, shrubbery or similar vegetation that encroaches upon a public Street, Alley or Sidewalk in violation of this section, to the extent needed to comply with this section. This remedy is in addition to any other remedy provided by section 1-1-5 or other law.

(Code 1960, § 21-54; Ord. No. 5627, § 2, 9-23-86; Ord. No. 6608, § 1, 8-13-2002)

Sec. 4-6-186. - Painting and chalking.

It shall be unlawful for any person to paint or chalk any public Sidewalk, Street or Street-related Structures within the City limits.

(Code 1960, § 21-55; Ord. No. 5627, § 2, 9-23-86)

Sec. 4-6-187. - Maintenance of sidewalks.

(a) Any owner of property abutting on a public Street and Sidewalk shall maintain in good repair the Sidewalk and any driveway approach apron crossing the Sidewalk. The Sidewalk or the driveway approach shall not be removed unless to immediately replace or repair said improvements to meet standards and specifications set forth by the City Engineer.

(b) The owner of property which abuts on any public Street, Sidewalk or driveway approach apron shall be liable for any injury or damage arising from a defect or defects caused by any act of omission, failure or negligence relative to the maintenance or repair of such Sidewalk or driveway approach aprons crossing such Sidewalk.

(Code 1960, § 21-56; Ord. No. 5627, § 2, 9-23-86; Ord. No. 5915, § 1, 5-9-91)

Sec. 4-6-188. - Use, care of public utility and drainage easements.

It shall be unlawful to construct or place any temporary or permanent Structure within, on or over any public utility or drainage Easement except for utilities equipment or stormwater conveyance facilities. The property owner may place removable section-type fencing, asphaltic concrete or Portland cement concrete, or landscaping within any dedicated public utility Easement or drainage Easement or combination thereof if stormwater conveyance capability is not reduced. The City or franchise utility of the City shall not be required to replace anything that must be removed during the course of maintenance, construction or reconstruction within any public utility or drainage Easement.

(Code 1960, § 21-57; Ord. No. 5627, § 2, 9-23-86; Ord. No. 5915, § 1, 5-9-91)

Sec. 4-6-189. - Private encumbrance of public right-of-way; license.

The following shall control the consideration of requests for encumbrances on, over, under or through Public Rights-of-Way:

(1) The right to encumber the Public Right-of-Way may be granted only by license and every grantee of a license shall agree to indemnify and hold the City harmless from any and all damages to persons or property, or both, arising in any way out of the use of the licensed Premises. Each person applying for a license shall pay an application fee of two hundred fifty dollars ($250.00) to cover the expenses of the processing costs associated therewith.

(2) No person shall be granted a license for an encumbrance of the Public Right-of-Way that would adversely affect the public health, safety or welfare of the citizens of the City.

(3) A licensee shall pay a license fee depending upon the amount of Right-of-Way encumbered as set out below. In no event shall a license fee be less than two hundred fifty dollars ($250.00) for a period of one (1) year.

a. For a private license authorizing a surface encroachment at the Sidewalk level, the annual license fee shall be seven (7) percent of the fair market value times the square footage of encumbrance.

b. For a private license authorizing an airspace encroachment above the Sidewalk level, the annual license fee shall be seven (7) percent of the fair market value times the square footage of encumbrance.

c. For a private license to encumber subsurface area, the annual license fee shall be two (2) percent of the fair market value times the square footage of encumbrance.

(4) Any person wishing to encumber the Public Right-of-Way in any manner shall submit a license application to the Planning Department. Upon receipt of such application the Assistant City Manager of Development Services shall forward the request to the City Manager for approval.

(5) Any license granted under this section shall be drafted or approved by the City Attorney.

(6) If any person is denied a license, he shall have the right to appeal such denial to the City Council by filing a written notice of appeal with the City Secretary no later than five (5) days from his receipt of notice of the denial of his request.

(7) The City Council shall hear the applicant's request and determine

(Code 1960, § 21-58; Ord. No. 5627, § 2, 9-23-86; Ord. No. 6123, § 1(EE), 12-27-94; Ord. No. 6560, § 1, 10-9-2001; Ord. No. 6847, § 4, 9-20-2005; Ord. No. 7525, § 3, 4-21-15)

Sec. 4-6-190. - Abandonment of public right-of-way.

In addition to the requirements set forth in V.T.C.A., Local Government Code, Ch. 272, the following shall control the consideration of requests for abandonment of Public Rights-of-Way that are abandoned by separate legal instrument:

(1) The applicant shall submit, along with an application to abandon Right-of-Way, an appraisal of fair market value prepared by a Texas licensed real estate appraiser that was prepared no more than three (3) months prior to the date the application is submitted for consideration. An appraised value less than the contributory value of the Right-of-Way to the adjoining private property will not be considered.

(2) The applicant shall pay the following filing fees for Public Right-of-Way abandonment: four hundred eighty-five dollars ($485.00) for each alley, easement, or street abandonment request filed for consideration.

(3) Notification signs shall be posted on the Street Right-of-Way proposed for abandonment according to written rules established by the Planning Department.

(Ord. No. 6417, § 1, 5-25-99; Ord. No. 6847, § 5, 9-20-2005; Ord. No. 7688, § 15, 9-12-17)

Secs. 4-6-191—4-6-199. - Reserved.

ARTICLE V. - SERVICE PROVIDER USE OF PUBLIC RIGHT(S)-OF-WAY

Sec. 4-6-200. - Statement of purpose.

(a) Public and private uses of Public Right(s)-of-Way for location of Facilities employed in the provision of public services should, in the interests of the general welfare, be accommodated; however, the City must insure that the primary purpose of the Right(s)-of-Way, passage of pedestrian and vehicular traffic, is maintained to the greatest extent possible. In addition, the value of other public and private installations, roadways, City utility system, Facilities and properties should be protected, competing uses must be reconciled, and the public safety preserved. The use of the Public Right(s)-of-Way corridors by private users is secondary to these public objectives and to the movement of traffic. This article is intended to strike a balance between the public need for efficient, safe transportation routes and the use of Public Right(s)-of-Way for location of public and private Facilities. The article thus has several objectives:

(1) To insure that the public safety is maintained and that public inconvenience is minimized.

(2) To protect the City's infrastructure investment by establishing repair standards for the pavement, Facilities, and property in the Public Right(s)-of-Way, when work is accomplished.

(3) To facilitate work within the Public Right(s)-of-Way through the standardization of regulations.

(4) To maintain an efficient permit process.

(5) To conserve and fairly apportion the limited physical capacity of the Public Right(s)-of-Way held in public trust by the City.

(6) To establish a public policy for enabling the City to discharge its public trust consistent with the rapidly evolving federal and state regulatory policies, industry competition, and technological development.

(7) To promote cooperation among the Service Providers and the City in the occupation of the Public Right(s)-of-Way, and work therein, in order to eliminate duplication that is wasteful, unnecessary or unsightly, lower the Service Providers' and the City's costs of providing services to the public, and preserve the physical integrity of the Streets, Alleys, Easements and highways by minimizing Pavement Cuts.

(8) To assure that the City can continue to fairly and responsibly protect the public health, safety, and welfare.

(b) This article does not grant any rights to use or occupy the City's Right(s)-of-Way but is intended to impose reasonable regulations on the use of the Public Right(s)-of-Way by persons authorized by License and Hold Harmless Agreements, franchises and/or by law to place and maintain equipment and Facilities within the Public Right(s)-of-Way.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-201. - Definitions.

For the purposes of this article the following terms, phrases, words and their derivatives shall have the meaning ascribed to them in the section.

Backfill. The placement of new dirt, select fill, or other material in an Excavation, or the return of Excavated dirt, select fill or other material to an Excavation.

City. The City of Amarillo, its officers, employees and departments.

City Engineer. The City Engineer or his/her designee(s).

Closure. A complete or partial closing of one (1) or more lanes of traffic for any period of time.

Common User. Service Provider(s) who uses Conduits or Ducts in Public Right(s)-of-Way in common with other Service Provider(s).

Construction. Any of the following activities performed by any person within a Public Right(s)-of-Way:

(1) Installation, reconstruction, laying, placement, repair, upgrade, maintenance or relocation of Facilities or other improvements except Service Lines, whether temporary or permanent;

(2) Modification or alteration to any surface, subsurface or aerial space within the Public Right(s)-of-Way;

(3) Performance, restoration, or repair of Pavement Cuts or Excavations; or

(4) Other similar construction work.

Contractor. A person hired or retained to do Construction for a Service Provider.

Duct or *Conduit.* A single enclosed raceway for cables, fiber optics, wires or other similar facilities.

Emergency. Any event which may threaten public health or safety, including, but not limited to, damaged or leaking water or gas piping systems, damaged, plugged, or leaking sanitary sewers or storm sewers, damaged electrical and telecommunications Facilities, unsafe overhead pole structures or any other condition that requires immediate repair or replacement of facilities to restore service to a customer.

Emergency Activity. Circumstances requiring immediate Construction or operations to:

(1) Prevent imminent damage or injury to the health or safety of any person or to the Public Right(s)-of-Way;

(2) Restore service; or

(3) Prevent the loss of service.

Excavate or *Excavation.* To dig into or in any way remove or penetrate any part of a Right(s)-of-Way.

Facilities. Any and all of the wires, cables, fibers, Duct spaces, manholes, poles, Conduits, pipes, connections, underground and overhead passageways and other equipment, structures, plants, and appurtenances and all associated physical equipment placed in, on, or under the Public Right(s)-of-Way of the City. Facilities specifically exclude Service Lines, landscaping materials, irrigation systems and materials used by the United States Postal Service or any other governmental entity.

Pavement Cut. An excavation in a sidewalk or improved surface of the Public Right(s)-of-Way.

Person. An individual, corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity who owns, installs, maintains, or controls Facilities or Service Lines.

Public Right(s)-of-Way. The surface of, and the space above and below a public street, road, highway, freeway, land, path, public way or place, Alley, court, boulevard, parkway, drive, or other easement now or hereafter held by or under the control of the City to which the City holds any property rights in regard to the use for utilities. The term does not include the airwaves above Public Right(s)-of-Way with regard to wireless telecommunications. The term is synonymous with "street", "road", "public way", "Right-of-Way," and public utility easement.

Service Line. Line connecting the Service Provider's utility or meter to the customer's point of utilization or consumption.

Service Provider. Any person using the Public Right(s)-of-Way including, but not limited to, any wholesale or retail electric utility, gas utility, telecommunications company, cable company, water utility, storm water utility, or wastewater utility, regardless of whether or not the Service Provider is publicly or privately owned or required to operate within the City pursuant to a franchise. The term "Service Provider" does not include persons performing installation or maintenance of Service Lines not owned by a Service Provider.

Thoroughfare. A Public Right(s)-of-Way that is a public traffic arterial or collector street, including all streets in the Central Business District.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-202. - Public right(s)-of-way construction.

No person shall commence or continue with the Construction of Facilities within the Public Right(s)-of-Way in the City except as provided by the ordinances of the City and the directives of the City ~~Engineering Department~~Capital Projects & Development Engineering Department. All Construction activity in Public Right(s)-of-Way will be in accordance with this article.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-203. - Registration.

(a) In order to protect the public health, safety and welfare, all Service Providers must register with the City. Registration will be issued in the name of the person who owns the Facilities. Registration must be renewed every five (5) years. For utilities with a current franchise or license, the franchise or license will be evidence of renewal. If a registration is not renewed and subject to sixty (60) day notification to the owner, the City shall refuse to grant further Construction permits until the registration is renewed. When any information provided for the registration changes, the Service Provider will inform the City of the change no more than thirty (30) days after the date the change is made. Registration shall include:

(1) The proper name of the Service Provider and any other assumed name;

(2) The name, address and telephone number of people who will be contact person(s) for the Service Provider;

(3) The name(s) and telephone number(s) of a contact(s) who shall be available twenty-four (24) hours a day;

(4) Proof of insurance and surety bond;

a. A Service Provider must provide acceptable proof of insurance in accordance with the requirements set forth in the City's Registration form. The City will accept certificates of self-insurance issued by the State of Texas, or letters written by applicant in those instances where the State does not issue such certificates, which provide the same coverage as required herein so long as the Service Provider demonstrates that it has adequate financial resources to be a self-insure entity.

b. A Service Provider shall provide an annual surety bond which will be valid each year Construction will occur and for one (1) full year after completion of the Construction. The bond must be from a surety company authorized to do business in the State of Texas and in an amount sufficient to cover the cost to restore the Right(s)-of-Way for the work anticipated to be done in the event the Service Provider leaves the job site in the Right(s)-of-Way unfinished, incomplete or unsafe, as determined by the City Engineer. This requirement may

be waived upon providing City Engineer with acceptable evidence of financial assets or reserves sufficient to cover the amount of the bond.

c. A Service Provider shall submit the required proof of insurance and surety bond at the time it registers with the City and maintain such throughout the term of period of the registration.

d. All proof of insurance and the surety bond will be filed with the City Engineer.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-204. - Construction permit.

(a) No Service Provider or any other person shall perform any Construction in the Public Right(s)-of-Way without first obtaining a Construction permit, except as provided herein. The permit will be issued in the name of the person who owns or will own the Facilities to be constructed. The permit application must be completed and signed by the owner of the Facilities to be constructed.

(1) Emergency repairs related to existing Facilities may be undertaken without first obtaining a permit in accordance with section 4-6-214 below.

(2) The phrase "Construction" does not include the following:

a. Installation and maintenance of a Service Line;

b. The vertical installation, maintenance; repair or replacement by a registered Service Provider of wooden poles not exceeding fifteen (15) inches in diameter, sixty (60) feet in length and which are not buried more than eight (8) feet deep into the Public Right-of-Way and which are located within twenty-eight (28) inches of the border of the Public Right-of-Way line;

c. Repair and maintenance of existing Facilities unless such repair or maintenance requires a Pavement Cut, the closure of a traffic lane for a period greater than six (6) hours, Excavation or boring;

(3) Notwithstanding the exceptions provided in subsection (2) just above, Service Provider or other person working in the Public Right(s)-of-Way shall comply with all applicable requirements of subsections 4-6-206(a), (b), (e) and (f) and sections 4-6-208, 4-6-209, 4-6-210, 4-6-211, 4-6-218, and 4-6-220.

(b) The permit shall state to whom it is issued, location of work, location of Facilities, estimated dates and times work is to take place and any other conditions set out by the City Engineer.

(c) The Service Provider applying for a permit will provide the City Engineer with documentation in the format specified by the City ~~Engineering Department~~Capital Projects & Development Engineering Department describing:

(1) The proposed location and route of all Facilities to be constructed or installed and the design plan for Public Right(s)-of-Way Construction.

(2) Plans which will be on a scale acceptable to the City ~~Engineering Department~~Capital Projects & Development Engineering Department.

(3) Detail of the location of all Right-of-Way and utility easements which applicant plans to use.

(4) Detail of all known Facilities in approximate relationship to applicant's proposed route.

(5) Detail of what applicant proposes to install, such as Conduits, Ducts, pipe and Duct size, number of interducts, valves, pull boxes, etc.

(6) Detail of plans to remove and replace asphalt, brick or concrete in Streets, Alleys, and easements. Plans will include City standard construction details.

(7) Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth located in Public Right(s)-of-Way.

(8) Handholes and/or manholes typical of the type of manholes and/or handholes applicant plans to use or access.

(9) Complete legend for drawings submitted by applicant, or a legend standard may be filed with City Engineer for reference.

(10) The Construction methods to be employed for the protection of existing Structures, fixtures, and Facilities within or adjacent to the Public Right(s)-of-Way, and the dates and times work will occur, all (methods, dates, times, etc.) are subject to approval of the City Engineer.

(11) A written schedule identifying the planned work and, anticipated phasing if applicable.

(12) If required by law, two (2) sets of plans prepared by a licensed Professional Engineer must be submitted with permit application.

(d) All Construction in the Public Right(s)-of-Way shall be in accordance with the Construction permit. The City Engineer shall have access to the work and to such further information as the City Engineer may reasonably require to ensure compliance with the permit.

(e) Prior to commencement of any work under the permit Service Provider shall provide the City Engineer with the name, address and phone number of the Contractor(s) and Subcontractor(s) who will perform the actual construction together with the name and phone number of an individual with the Contractor(s) and Subcontractor(s) who will be available at all times during Construction.

(f) A copy of the Construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the City Engineer at all times when Construction work is occurring.

(g) All Construction work authorized by permit must be completed in the time specified in the Construction permit. If the work cannot be completed in the specified time periods, an extension from the City Engineer may be requested. If the request for an extension is made prior to the expiration of the permit, work under the permit may continue while the request for an extension is pending.

(h) A copy of any permit or approval issued by federal or state authorities for work in federal or state Right-of-Way located in the City, must be provided if the work will extend into the Public Right(s)-of-Way.

(i) An application for a permit must be submitted before the commencement of the proposed work as follows:

(1) Five (5) business days for projects requiring no permanent Structure(s) and less than one thousand (1,000) linear feet of Facilities; and

(2) Ten (10) business days for all other projects.

The required time periods may be waived by the City Engineer.

(j) Applications for permits will be approved or disapproved by the City Engineer before the date indicated for commencement of work.

(k) The City ~~Engineering Department~~Capital Projects & Development Engineering Department or the applicant can request a pre-Construction meeting with the Construction Contractor.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-205. - Service line permit.

(a) It shall be unlawful for any person except Service Provider's registered under section 4-6-203 to Excavate and/or make Pavement Cuts in any Public Right(s)-of-Way for the purpose of Service Line installation or maintenance without first:

(1) Making application for a Service Line permit from the City Street Department agreeing to the repair and restoration of the Public Right(s)-of-Way in accordance with the prescribed City specifications and securing from the City Street Department a written permit therefor;

(2) Providing a plan for the Service Line excavation and restoration of said Public Right(s)-of-Way; and

(3) Posting a performance surety bond or cash-equivalent security in an amount representing the estimated cost of restoring the Public Right(s)-of-Way surface to prescribed City specifications and providing evidence of insurance as required by the permit application.

(b) The City Street Department, upon investigation of the location, purpose, extent and time of the disturbance of the surface of the Public Right(s)-of-Way may grant or, for an expressed reason, refuse permission for the Service Line permit. The applicant must be notified by the City Street Department whether the permit is granted or refused within one (1) business day after the application has been made.

(c) All Excavations and/or Pavement Cuts in Public Right(s)-of-Way shall be maintained and repaired in accordance with section 4-6-211 below.

(d) The person doing the Excavation and/or Pavement Cuts shall be fully responsible for safeguarding persons and property from damages or injury.

(e) If applicable, Persons doing Excavation and/or Pavement Cuts shall minimize disruptions to access to adjacent property by coordinating their schedule with other Persons in the vicinity working in the Public Right(s)-of-Way. When coordination conflicts occur, the City Street Department shall coordinate the work to reduce access problems.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-206. - General public right(s)-of-way use and construction.

(a) *Minimal Interference.* Work in the Public Right(s)-of-Way shall be done in a manner that causes the least interference with the rights and reasonable convenience of adjacent property users, owners, and residents. Service Provider's Facilities shall be constructed or maintained in such a manner as not to interfere with sewers, water pipes, or any other property of the City, or with any other pipes, wires, Conduits, pedestals, Structures, or other Facilities that have been constructed in the Public Right(s)-of-Way by, or under, the City's authority. The Service Provider's Facilities shall be located, erected, and maintained so as not to endanger or interfere with the lives of persons, obstruct the free use of the Public Right(s)-of-Way or other public property, and shall not interfere with the travel and use of public places by the public during the Construction, repair, or removal thereof except as authorized by this article or the City Engineer. This subsection shall not be construed to require relocation of any Facility that was completed or under Construction on the effective date of this article, provided nothing in this subsection reduces or restricts the City's right to require a Service Provider to relocate Facilities as required by other law.

(b) *Locations and Notifications:*

(1) A permit does not relieve a Service Provider of the responsibility to coordinate with other utilities and to protect existing Facilities. A Service Provider working in the Public Right(s)-of-Way is responsible for obtaining line locates from all affected utilities or others with Facilities in the Public Right(s)-of-Way prior to any Excavation.

(2) The Service Provider will be responsible for verifying the location, both horizontal and vertical, of all Facilities. When required by the City Engineer, the Service Provider shall verify location by potholing, hand digging or another method approved by the City Engineer prior to any Excavation or boring.

(3) In verifying location of Facilities in the Public Right(s)-of-Way in preparation for Construction under a permit, Service Provider shall provide to City Engineer a copy of any written information obtained regarding its or any other Facilities in the Public Right(s)-of-Way related to a particular

permit. The Service Provider shall not be responsible for the accuracy of any information provided.

(4) Before beginning Excavation in any Public Right(s)-of-Way, a Service Provider shall contact the Texas Underground Facility Notification Corporation to the extent required by V.T.C.A., Utilities Code Ch. 251, make inquiries of all ditch companies, utility companies, districts, local governments, and all other Service Providers that might have Facilities in the area of work to determine possible conflicts.

(5) The Service Provider shall support and protect all pipes, Conduits, Ducts, poles, wires, Structures, pavement, other apparatus and equipment and property improvements and landscaping which may be affected by the work from damage during Construction or settlement of trenches subsequent to Construction.

(c) *Underground Construction versus Use of Poles.*

(1) In areas where all Facilities are installed underground at the time of Service Provider's Construction, all Service Provider's Facilities shall also be placed underground at no expense to the City, unless otherwise approved by the City Engineer. Related equipment, such as pedestals, must be placed in accordance with the City's applicable code requirements and rules, including all visibility easement requirements. In areas where existing Facilities are aerial, the Service Provider may install aerial Facilities.

(2) For above-ground Facilities, the Service Provider shall utilize existing poles wherever reasonable.

(3) Should the City desire to place its own Facilities in trenches or bores opened by the Service Provider, the Service Provider shall cooperate with the City in any Construction by the Service Provider to the extent practicable and feasible, provided that the City has first notified the Service Provider in some manner that it is interested in sharing the trenches or bores in the area in which the Service Provider's Construction is occurring, and provided City agrees to pay the incremental increase in cost of the trenching and boring. The City shall be responsible for maintaining its respective Facilities buried in the Service Provider's trenches and bores under this paragraph. Service Provider(s) shall have reciprocal rights in City trenches or bores except trenches and bores for water and sewer lines and when prohibited by applicable ordinances or codes. The City may install or affix and maintain its own Facilities for City purposes in or upon any and all of Service Provider's Ducts, Conduits, or equipment in the Public Right(s)-of-Way and other public property, at a charge to be negotiated between the parties (but in no event greater than the best price charged by Service Provider to any other user), to the extent space therein or thereon is reasonably available.

(d) *Common Users.*

(1) The Public Right(s)-of-Way have a finite capacity for containing Facilities, yet municipalities are increasingly not allowed to exclude a new Service Provider from the market. Accordingly, there is a paramount public interest in maximizing the use of the capacity of the use of existing Public Right(s)-of-Way. Whenever it is possible and reasonably practicable to jointly trench or share bores or cuts, the Service Provider shall work with other, licensees, Service Providers, Contractors and franchisees so as to reduce as much as possible the number of Public Right(s)-of-Way cuts within the City. Whenever the City determines it is impractical to permit Construction of an underground Conduit system by any other entity which may at the time have authority to construct or maintain Conduits or Ducts in the Public Right(s)-of-Way, but excluding entities providing services in competition with Service Provider and unless otherwise prohibited by federal or state law regulations, the City may require Service Provider to afford to such entity the right to use Service Provider's surplus Ducts or Conduits in common with Service Provider, pursuant to the terms and conditions of an agreement for use of surplus Ducts or Conduits entered into by Service Provider and the other entity. When the Service Provider and entity are unable to agree on the terms and conditions for use, the City may require them to default to the following: share a rental rate equal to the portion of the costs based on the space to be encumbered at a rate of capital installation costs plus ten (10) percent amortized over a period of ten (10) years. Nothing herein shall require Service Provider to enter into an agreement with such entity if, in Service

Provider's reasonable determination, such an agreement could compromise the integrity of the Service Provider's Facilities.

(2) Service Provider shall give a Common User (with a copy to the City Engineer) a minimum of one hundred twenty (120) calendar days notice of its need to occupy a Conduit and shall propose that the Common User take the first feasible action as follows:

a. Pay revised Conduit rent designed to recover the cost of retrofitting the Conduits or Ducts with space-saving technology sufficient to meet Service Provider's space needs;

b. Pay revised Conduit rent based on the cost of new Conduits or Ducts constructed to meet Service Provider's space need;

c. Vacate the needed Ducts or Conduits; or

d. Construct and maintain sufficient new Conduits or Ducts to meet Service Provider's space needs.

(3) When two (2) or more Common Users occupy a section of Conduit, the last user to occupy the Conduit shall be the first to vacate or construct new Conduit unless otherwise agreed to by Common Users. When Conduit rent is revised because of retrofitting, space-saving technology or Construction of new Conduit, all Common Users shall bear the increased cost.

(4) All Facilities shall meet all applicable local, state, and federal clearance and other safety requirements, be adequately grounded and anchored, and meet the provisions of contracts executed between Service Provider and the other Common User. Service Provider or Contractor may, at its option, correct any attachment deficiencies and charge the Common User for its costs. Each Common User shall pay for any fines, fees, damages or other costs the Common User's attachments incurs.

(e) *Excavation Safety.* On Construction projects in which Excavation exceeds a depth of four (4) feet, the Service Provider must have detailed plans and specifications for Excavation safety systems. The term Excavation includes trenches, structural or any Construction that has earthen Excavation subject to collapse. The Excavation safety plan shall be designed in conformance with state law and Occupational Safety and Health Administration (OSHA) standards and regulations.

(f) *Erosion Control.* The Service Provider shall be responsible for providing stormwater management and erosion control that complies with City, state and federal guidelines.

(g) *Wireless Communication Facilities in the Rights-of-Way* . For any entity that is governed by Chapter 284 of the Texas Local Government Code, the following shall apply:

(1) *Permit Required.* A permit is required for the installation, modification, or repair of a network node, node support pole, pole, or other wireless communication facility that will encroach upon or be located in, on, or within a right-of-way street, alley, or other right-of-way within the City.

(2) *Design Manual.* Pursuant to the terms outlined in Chapter 284 of the Texas Local Government Code, the City Manager shall enforce any design manual adopted by the city and the terms and conditions of the design manual shall outline the terms and conditions of any permit issued hereunder and are binding upon any entity subject to this section.

(3) *Construction.* The terms and conditions of this section and any design manual adopted in accordance with Chapter 284 of the Texas Local Government Code shall be read in conjunction with this Article of the Amarillo Code of Ordinances. In the event of any discrepancy or ambiguity between this Article, this Code of Ordinances, the Design Manual, or Chapter 284 of the Texas Local Government Code, the later shall control.

(4) City Council may establish a fee for issuance of a permit under this Article and any such fee may be included in fee schedule adopted by the City Council. For any entity that is governed by Chapter 284 of the Texas Local Government Code, the fee shall be $500.00 per application covering up to five network nodes (as that term is defined in Tex. Loc. Gov't Chapter 284 as amended), two hundred fifty dollars ($250.00) for each additional network node per application

and one thousand dollars ($1,000.00) per application for each pole. All fees must be paid in full before any permit shall be issued by the City.

(Ord. No. 6559, § I, 10-9-2001; Ord. No. 7689, § 2, 11-28-2017)

Sec. 4-6-207. - Joint planning and construction; coordination of excavations.

(a) Excavations in Public Right(s)-of-Way disrupt and interfere with the public use of the City Streets and Alleys and damage the pavement and landscaping. The purpose of this section is to reduce this disruption, interference and damage by promoting better coordination among Service Providers making Excavations in Public Right(s)-of-Way and between these Service Providers and Contractors and the City. Better coordination will assist in minimizing the number of Excavations being made wherever feasible and will ensure the Excavations in Public Right(s)-of-Way are, to the maximum extent possible, performed before, rather than after, the reconstruction of the Streets and Alleys by the City.

(b) Utility Coordination Meeting.

(1) The City will hold a utility coordination meeting a minimum of once per year. The purpose of the meeting is for the City to inform Service Providers of proposed and current capital improvement projects in the City and also for the Service Providers to inform each other and the City of current and future projects. Each Service Provider shall make reasonable efforts to attend and participate in the meetings of the City, in which the Service Provider will be made aware of Public Right(s)-of-Way issues that may impact its Facilities.

(2) Except in an Emergency the City will notify the Service Providers at least four (4) months before Construction will start on a major City project. Preliminary engineering plans will be available for inspection to the Service Providers at least two (2) months before the project is to start Construction. Final engineering plans will be made available to the Service Providers at least one (1) month before the project is to start Construction.

(c) Excavation Plan. In addition to participating in the Utility Coordination Meetings, every Service Provider owning, maintaining or installing Facilities in Public Right(s)-of-Way shall meet annually with the City Engineer, at the City Engineer's request, to discuss Service Provider's planned or reasonably anticipated Excavations to occur in the calendar year of the meeting and for the next two (2) calendar years. Between the annual meetings to discuss planned Excavation work, Service Provider shall inform the City Engineer of any substantial changes in the planned Excavation work discussed at the annual meeting.

(Ord. No. 6559, § I, 10-9-2001; Ord. No. 7470, § 1, 8-12-2014)

Sec. 4-6-208. - Minimizing the impacts of work in the public right(s)-of-way.

(a) Each Service Provider and Contractor shall conduct work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the work, the Service Provider and Contractor shall take appropriate measures to reduce noise, dust, and unsightly debris. No work shall be done on Saturday, Sunday and between the hours of 6:00 p.m. and 7:00 a.m. Monday through Friday, except with the written permission of the City Engineer, or in case of an Emergency.

(b) Each Service Provider and Contractor shall maintain the work site so that:

(1) Solid waste and construction materials are contained on the Construction site.

(2) Solid waste is removed from a Construction site daily so that it does not become a health, fire, or safety hazard.

(3) Solid waste receptacles and storage or construction trailers shall not be placed in any Public Right(s)-of-Way without specific approval of the City Engineer.

(c) Each Service Provider and Contractor shall protect trees, landscape, and landscape features. All protective measures shall be provided at the expense of the Service Provider or Contractor.

(d) Backhoe equipment outriggers shall be fitted with pads to avoid damage whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surfaces unless effective precautions are taken to protect the surface. Service Provider and Contractor shall be responsible for any damage caused to the pavement by the operation of such equipment and shall repair such surfaces. Failure to do so will result in the use of the Service Provider's performance guarantee pursuant to section 4-6-219 hereof by the City to repair any damage, and, possibly mandating, the requirement of additional guarantee(s).

(e) Each Service Provider and Contractor shall protect from injury any Public Right(s)-of-Way and adjoining property by taking all necessary measures. Service Provider or Contractor shall, at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the work and shall be responsible for all damage to public or private property resulting from failure to properly protect and carry out work in the Public Right(s)-of-Way.

(f) As the work progresses, all Public Right(s)-of-Way and private property shall be thoroughly cleaned of all rubbish, excess dirt, rock, and other debris. All clean-up operations shall be done at the expense of the Service Provider or Contractor. Service Provider or Contractor shall restore any disturbed area to its original condition.

(g) Each Service Provider and Contractor shall make provisions for employee and Construction vehicle parking so that neighborhood parking adjacent to a work site is not adversely impacted.

(1) Each Service Provider and Contractor shall maintain a public walkway approved by the City Engineer around a Construction site that blocks a public sidewalk or path.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-209. - Facility locations.

(a) All Facilities in new developments shall be located in accordance with the Development Policy Manual unless an alternative location has been approved by the City Engineer. Such utility locations are hereby adopted as standard locations for utilities in new developments. The intent of these items is that they serve as a standard for Service Providers whose routine business requires the installation, repair, or relocation of utilities.

(b) Facilities to be installed in previously developed Streets and Alleys should be located the same as in new developments when possible. If the location shown cannot be used by the Service Provider, another Service Provider's location can be used, provided the substitution is approved by the other Service Provider. If no agreement can be made, the decision of the City Engineer will be final. Other locations must be approved by the City Engineer. Facilities may be located at less depth than shown provided they receive prior written approval from the City Engineer and a concrete cap is constructed over the installation.

(c) Guy wires, anchors, and other above-ground Facilities shall not be less than seven (7) feet in height over a sidewalk area and shall be located not less than two (2) feet from the back of Street curbs or edge of Street paving. If an encroachment can be located adjacent to the Public Right(s)-of-Way line and is in another Service Provider's location, written approval from the other Service Provider is required. If no agreement can be made, the decision of the City Engineer will be final. If an encroachment is less than seven (7) feet in height over a sidewalk area, the sidewalk must be widened at Service Provider's or Contractor's expense to provide the necessary clearance as approved by the City Engineer.

(d) Temporary Facilities may be located in nonstandard locations as authorized by the City Engineer.

(e) Any encroachment of a Facility within the sidewalk or path area of a Public Right(s)-of-Way must comply with all requirements of the Americans With Disabilities Act at the expense of Service Provider.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-210. - Traffic control.

(a) Except as otherwise provided herein, no Person, Service Provider or Contractor may partially or completely close or obstruct a Public Street or Alley without notifying the City Engineer at the time an application for either a Construction or Service Line Permit is made unless an emergency exists.

(b) It shall be the responsibility of the Person, Service Provider or Contractor to notify the City Engineer of the closure or obstruction of a Street or Alley. The City Engineer shall notify the Police Department, Fire Department, Transit Department, Solid Waste Department and ambulance services, as appropriate, of the closure or obstruction.

(c) All traffic control barricading and methods shall comply with the most recent version of the Manual on Uniform Traffic Control devices or any successive publication thereto. No Person, Service Provider or Contractor shall block access to and from private property, block vehicles, block access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing Structures, or any other vital equipment unless the Person, Service Provider or Contractor provides the City Engineer with written verification of written notice delivered to the owner or occupant of the facility, equipment, or property at least forty-eight (48) hours in advance, except in case of an emergency.

(d) When necessary for public safety the Service Provider or Contractor shall employ flag persons whose duties shall be to control traffic around or through the Construction site.

(e) The Person, Service Provider or Contractor shall not prevent the flow of traffic on thoroughfares and Alleys during the hours of 7:00 a.m. to 9:00 a.m. or 4:00 p.m. to 6:00 p.m., Monday through Friday unless approved by the City Engineer.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-211. - Requirements for excavations and pavement cuts.

(a) Permanent repairs of pavement cuts in Right(s)-of-Way will be completed by the Person, Service Provider or Contractor in accordance with City Standard Specifications for Utility Construction in City Right-of-Way and Easements. Failure to do so will result in the use of the Person's or Service Provider's performance surety bond or cash equivalent security and, possibly mandating, the requirement of additional surety bond(s) and/or the denial of future permits.

(b) The Person, Service Provider or Contractor shall be responsible for maintaining all Excavations and Pavement Cuts in such a manner as to avoid a hazard to vehicular and pedestrian traffic until permanently repaired.

(1) Person, Service Provider or Contractor will be required to maintain the interim repairs until final repairs are completed.

(2) When further repairs are deemed necessary by the City Engineer to correct a hazardous situation the Person, Service Provider or Contractor responsible for the Excavations and/or Pavement Cuts shall be notified immediately. If the Person, Service Provider or Contractor does not make the repair or provide an acceptable schedule within eight (8) hours of being notified, the repairs can be performed by the City and billed to the Person, Service Provider or Contractor.

(c) All damage caused directly or indirectly to the Street surface or subsurface outside the Pavement Cut area shall be regarded as a part of the Pavement Cut. These areas, as established by the City Engineer, will be included in the total area repaired.

(d) The Person, Service Provider or Contractor shall notify the City ~~Engineering Department~~Capital Projects & Development Engineering Department immediately of any damage to other Facilities as well as the owner of the affected Facility.

(e) The City ~~Engineering Department~~Capital Projects & Development Engineering Department, in conjunction with the City Street Department, shall regulate the cutting and restoration of Street,

Sidewalk, and Alley pavements in the City. These requirements shall apply equally to any Person, Service Provider or Contractor who makes cuts and repairs Pavement Cuts in the City.

(f) When a Service Provider or Contractor is installing more than five hundred (500) continuous linear feet of underground Facilities, the Service Provider or Contractor shall notify in writing all individual occupants along the route. This notification shall give information about the project, including, but not limited to, the proposed location of the Facilities, the time length for Construction, and a twenty-four-hour contact person to report any problems. The Service Provide or Contractor shall ensure a prompt response to any occupant inquiries and concerns.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-212. - Construction and restoration standards for newly constructed or overlayed streets and alleys.

(a) No Service Provider or Contractor shall allow an open trench Excavation or potholing of Facilities in the pavement of any Public Right(s)-of-Way for a period of three (3) years from the completion of new Street construction or overlay of Streets except in compliance with the provision of this section.

(b) Any application for a Construction Permit to Excavate in Public Right(s)-of-Way subject to the requirements of this section shall contain the following information:

(1) A detailed and dimensional engineering plan that identifies and accurately represents the Public Right(s)-of-Way and property that will be impacted by the proposed Excavation, as well as adjacent Streets, and the method of Construction.

(2) The Street or Alley width including curb and gutter over the total length of each City block that will be impacted by the proposed Construction.

(3) The location, width, length, and depth of the proposed Excavation.

(4) The total area of existing Street or Alley pavement, and/or improved surfaces in each individual City block that will be impacted by the proposed Excavation.

(5) A written statement addressing the criteria for approval set forth in subsection (c) below.

(c) No Construction permit for Excavation in the Public Right(s)-of-Way of newly constructed or overlayed Streets or Alleys shall be approved unless the City Engineer finds that all of the following have been met:

(1) Boring or jacking without disturbing the pavement is not practical due to physical characteristics of the Street or Alley or other Facilities.

(2) Alternative Facilities alignments that do not involve excavating the Street or Alley are found to be impracticable.

(3) The proposed Construction cannot reasonably be delayed until after the three-year deferment period has lapsed.

(d) The Streets or Alleys shall be restored and repaired in accordance with design and construction standards provided by the City Engineer or as established and adopted by the City.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-213. - Abandonment of facilities.

Any Service Provider that intends to abandon its use of any Facilities within the Public Right(s)-of-Way shall notify the City Engineer in writing of the intent to abandon Facilities. Such notice shall describe the Facilities to be abandoned, a date of abandonment (which date shall not be less than thirty (30) days from the date such notice is submitted to the City Engineer), and the method of removal of the Facilities and for restoration of the Public Right(s)-of-Way.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-214. - Emergency procedures.

Any Service Provider maintaining Facilities in the Public Right(s)-of-Way may proceed with emergency repairs upon existing Facilities without a Permit when circumstances demand that the work be done, but they must apply to the City for a Permit on or before the third working day after such work has commenced. All work will require immediate telephone notification to the City Police, Engineering, and Fire Departments. Emergency maintenance operations shall be limited to circumstances involving the preservation of life, property, or the restoration of customer service. Any Service Provider or Contractor commencing operations under this Section shall submit detailed engineering plans and Construction methods no later than ten (10) business days after initiating the emergency maintenance operation. In case of emergency Service Line excavations, such as leakage or loss of service, the City Street Department shall be notified by the Person doing the excavation within twenty-four (24) hours after the Service Line excavation has been commenced.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-215. - Record plans.

(a) If installations do not follow the plans originally submitted under section 4-6-204 above, the Service Provider will provide the City Engineer with updated Construction drawings within ninety (90) days of completion of Facilities in the Public Right(s)-of-Way. Users who have Facilities in the right-of-way on the date of passage of this article who have not provided record plans shall provide one (1) quarter of the information concerning Facilities in Right-of-Way within one (1) year after the passage of the ordinance and an additional one (1) quarter each six (6) months thereafter. The plans shall be provided to the City with as much detail and accuracy as available to the Service Provider. The detail and accuracy must concern issues such as location, size of Facilities, materials used, and any other health, safety and welfare concerns. The detail will not include matters such as capacity of lines, customers, or competitively sensitive details. If information submitted includes information designated as trade secrets or as confidential, the information may not be disclosed by the City without the consent of the Public Service Provider unless it is compelled to disclose the information by the Texas Attorney General pursuant to the Texas Public Information Act or by a court order.

(b) This requirement, or portions of this requirement, may be waived by the City Engineer for good cause.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-216. - Conformance with public improvements.

Whenever by reasons of widening or improvements to Public Right(s)-of-Way, water or sewer line projects, or other public works projects, (e.g. install or improve storm drains), it shall be deemed necessary by the City to remove, alter, change, adapt, or conform the underground or overhead Facilities of a Public Right(s)-of-Way user to another part of the Public Right(s)-of-Way, such alterations shall be made by the owner of the Facilities at its expense (unless provided otherwise by state law or a franchise in effect on August 26, 1999, until that franchise expires or is otherwise terminated) within the time limits set by the City Engineer working in conjunction with the owner of the Facilities, or if no time can be agreed upon, within ninety (90) calendar days from the day the notice was sent to make the alterations, unless a different schedule has been approved by the City ~~Engineering Department~~Capital Projects & Development Engineering Department. Facilities not moved after ninety (90) calendar days or within the approved schedule, as same be extended from time to time, shall be moved by City at owner's expense.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-217. - Improperly installed facilities.

(a) Any Person doing work in the Public Right(s)-of-Way shall properly install, repair, upgrade and maintain Facilities.

(b) Facilities shall be considered to be improperly installed, repaired, upgraded or maintained if:

(1) The installation, repairs, upgrade or maintenance endangers people or property;

(2) At the time of installation the Facilities did not meet applicable City, state or federal codes;

(3) The Facilities are not capable of being located using standard practices;

(4) The Facilities are not located in the proper place at the time of Construction in accordance with the permit and engineering plans approved by the City Engineer.

(c) Facilities determined by the City Engineer to have been improperly installed, repaired, upgraded or maintained shall be properly installed, repaired, upgraded or maintained immediately upon receipt of notice from the City Engineer.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-218. - Restoration of property.

(a) Users of the Public Right(s)-of-Way shall restore property affected by Construction of Facilities to a condition that is equal to or better than the condition of the property prior to the performance of work.

(b) Restoration must be to the reasonable satisfaction of the City Engineer. The restoration shall include, but not be limited to:

(1) Replacing all ground cover and other landscaping with the type of ground cover and other landscaping damaged during work, or better, either by planting, sodding, or seeding, as directed by the City Engineer;

(2) Installation of all manholes and handholes, as required;

(3) All bore pits, potholes, trenches or any other holes shall be filled in, covered, or barricaded daily, unless other safety requirements are approved by the City Engineer;

(4) Compaction and leveling of all trenches and excavations;

(5) Restoration of site to City specifications;

(6) Restoration of all sprinkler systems, retaining walls, planters, and other improvements.

(c) All locate flags shall be removed during the clean up process by the Service Provider or Contractor at the completion of the work.

(d) Restoration must be made in a timely manner as specified by approved City ~~Engineering Department~~Capital Projects & Development Engineering Department schedules and to the satisfaction of the City Engineer. If restoration is not satisfactory or performed in a timely manner all work in progress, except that related to the problem, including all work previously permitted but not completed may be halted and a hold may be placed on any permits not approved until all restoration is complete.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-219. - Performance surety bond.

(a) Service Provider's Performance Surety Bond provided in accordance with section 4-6-203(a)4b shall serve as security for the performance of work necessary to repair the Public Right(s)-of-Way if the Service Provider or Contractor fails to make the necessary repairs or to complete the work under the Permit.

(b) The Service Provider's Performance Surety Bond guarantees complete performance of the work in a manner acceptable to the City and guarantees all work done for a period of one (1) year after the date of written acceptance. Service Provider shall respond upon demand and make all necessary repairs during the one-year-period as a result of:

(1) Defects in workmanship.

(2) Settling of fills or Excavations.

(3) Any unauthorized deviations from the approved permits and engineering plans.

(4) Failure to clean up during and after performance of the work.

(5) Restoration of improvements including, but not limited to landscaping, irrigation, ground cover, and other improvements.

(c) The one-year-period shall run from the date of the City's acceptance of the work which shall be the date of the letter of acceptance issued by the City to the Service Provider and/or Contractor. If repairs are required during the one-year guarantee period, those repairs need only be guaranteed until the end of the initial one-year-period. It is not necessary that the guarantee period be extended for repairs after acceptance except as provided.

(d) At any time prior to completion of the one-year guarantee period, the City may notify the Service Provider or Contractor of any needed repairs. Such repairs shall be completed within twenty-four (24) hours if the defects are determined by the City to be an imminent danger to the public health, safety, and welfare. All other repairs shall be completed within ten (10) business days after notice.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-220. - Indemnification.

(a) Each Service Provider and Contractor placing Facilities in the Public Right(s)-of-Way shall agree to promptly defend, indemnify, and hold the City harmless from and against all damages, costs, losses, or expenses for the repair, replacement or restoration of property, equipment, materials, Structures, and Facilities that are damaged, destroyed, or found to be defective as a result of the Service Provider's or Contractor's acts or omission, from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any Service Provider or Person and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person, arising out of, incident to, concerning, or resulting from the negligent or willful act of omissions of the Service Provider or Contractor, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this chapter.

(b) This indemnity provision shall not apply to any liability resulting from the negligence or willful misconduct of the City, its officers, employees, agents, contractor, or subcontractors.

(c) The provision of this indemnity is solely for the benefit of the City and is not intended to create or grant any rights, contractual or otherwise, to any other Person or entity.

(d) A Service Provider that is a certificated telecommunications provider as defined in V.T.C.A., Local Government Code, Ch. 283 shall provide the indemnity provided in V.T.C.A., Local Government Code § 283.057, as amended.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-221. - Denial, suspension, revocation, or extension of permit.

(a) *Denial of a Permit.* A permit (Construction and Service Line) may be denied for any one (1) of the following reasons:

(1) Not having proper insurance for the required amounts.

(2) Consistently failing to perform in accordance with the requirements of this article.

(3) Requesting to cut a City-maintained Street that can be crossed by jacking, boring or tunneling.

(4) Proposing barricading, channelizing, signing, warning or other traffic control procedures or equipment that does not comply with the requirements of the Manual on Uniform Traffic Control Devices.

(5) The activity or the manner in which it is to be performed will violate a City ordinance or a state or federal law.

(6) Failure to furnish all of the information required under this article or, except for good cause shown, to file the registration or Construction or Service Line permit applications within the time prescribed.

(7) Misrepresenting or falsifying any information in the registration or Construction or Service Line permit applications.

(8) Failing to provide a surety bond or other acceptable security or comply with the Performance Guarantee.

(9) Owing outstanding debts to the City.

(10) Lack of available space in the Public Right(s)-of-Way.

(11) Proposed activity will substantially interfere with vehicular or pedestrian traffic and no procedures have been implemented to minimize the interference.

(b) *Suspension of a Permit.* The City Engineer may suspend any or all permits granted to allow work in the Public Right(s)-of-Way for the following reasons subject to the procedural guidelines noted in section 4-6-222 and any agreement that applies to the Service Provider using the Public Right(s)-of-Way, as well as any limitations imposed by federal or state law:

(1) Failing to comply with an order of the City Engineer;

(2) The recognition that a permit was issued in error;

(3) Failing to comply with restrictions or requirements placed on the permit by the City Engineer; or

(4) Any safety violation which create peril to the public; or

(5) Violating any provision of this article.

(c) The City Engineer may reinstate a previously suspended permit when the conditions that caused such permit to be suspended are remedied to the satisfaction of the City Engineer.

(d) *Revocation of a Permit.* If no work has begun on a permitted project within thirty (30) calendar days of issuance of the permit, the permit shall be null and void, and a new permit shall be required.

(e) *Extension of a Permit.* The City Engineer may grant an extension of a permit for a period not to exceed sixty (60) days if requested by the permit holder. Such a request must be made before the permit expires. If no call for the cancellation of a permit or for an inspection is received within sixty (60) days of a permit being issued, a City ~~Engineering Department~~Capital Projects & Development Engineering Department project representative will be sent to the location to determine the status of the permitted work.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-222. - Appeal from denial, suspension, or revocation of permit.

(a) A Person may, within ten (10) business days from the date of notification of the decision of the City Engineer, appeal a decision to deny, suspend or revoke a permit to a panel consisting of the Director of Public Works, the Director of Community Services, the Director of Utilities and the City Traffic Engineer. The appeal must be in writing and shall specifically state the basis for the challenge to the

decision of the City Engineer. Should the decision of the City Engineer be appealed, the City Engineer shall transmit to the panel all the papers constituting the record by which the original permit was denied, suspended or revoked.

(b) The panel will meet with the Person within ten (10) business days of reviewing the written appeal. The panel will consider all information provided in making its decision. All decisions of the panel will be made within five (5) business days of the meeting.

(c) Any Person who is dissatisfied with the findings of the panel may within ten (10) business days from the date of notification of the ruling file a written appeal with the City Secretary that the decision of the panel be heard and considered by the City Council. The City Secretary shall schedule a time for a hearing before the City Council and shall notify the Person and any one indicating an interest in the hearing.

(d) A hearing by the City Council shall be held within thirty (30) business days of receipt of the written appeal. Decisions of the City Council shall be final.

(Ord. No. 6559, § I, 10-9-2001; Ord. No. 7658, § 2, 3-14-2017)

Sec. 4-6-223. - City engineer's authority; enforcement; offenses.

(a) The City Engineer is authorized to administer and enforce the provisions of this article and to promulgate regulations to aid in its administration and enforcement that are not in conflict with other provisions of this Code, or state or federal law.

(b) The City Engineer is authorized to enter upon a Construction site for which a permit is granted or, where necessary, private property adjacent to the Construction site, for purposes of inspection to determine compliance with the provisions of the permit and this article.

(Ord. No. 6559, § I, 10-9-2001)

Sec. 4-6-224. - Offenses.

(a) A Person commits an offense if the Person:

(1) Performs, authorizes, directs, or supervises work in the Public Right(s)-of-Way without a valid permit;

(2) Violates any other provision of this article;

(3) Fails to comply with restrictions or requirements of the permit; or

(4) Fails to comply with an order or regulation of the City Engineer.

(b) A Person commits an offense if, in connection with the performance of work in the Public Right(s)-of-Way, the Person:

(1) Damages the Public Right(s)-of-Way beyond what is incidental or necessary to the performance of the work;

(2) Damages Public or private Facilities or improvements within or adjacent to the Public Right(s)-of-Way; or

(3) Fails to clear debris associated with the work from a Public Right(s)-of-Way during work or after work is completed.

(c) It is a defense to prosecution under subsection (b)(2) if the Person complied with all of the requirements hereof and state and federal law and caused the damage because:

(1) The Facility in question was not shown or indicated in a plan document, plan or record, record Construction plan, field survey, or on-site staking or marking, and

(2) Could not otherwise have been discovered in the Public Right(s)-of-Way through the use of due diligence.

(d) A Person commits an offense if, while performing an activity along or within a Public Right(s)-of-Way (whether or not a Construction or other permit is required for the activity), the Person:

(1) Damages the Public Right(s)-of-Way, or public or private Facilities or improvements within or adjacent to the Public Right(s)-of-Way, or

(2) Fails to clear debris associated with the activity from a Public Right(s)-of-Way.

(e) A culpable mental state is not required to prove an offense hereunder. A Person who violates a provision of this article is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, authorized, directed or permitted. An offense under this article is punishable by a fine of not less than five hundred dollars ($500.00) and not to exceed two thousand dollars ($2,000.00) (See section 1-1-5 Amarillo Municipal Code.)

(f) The provision hereof may be enforced by civil court action in accordance with state or federal law. This section is in addition to any other remedies, civil or criminal, the City has for a violation of provisions of this article.

(g) Prior to initiation of civil enforcement litigation, the Service Provider or any other Person who has committed a violation under this section shall be given the opportunity to correct the violation within the time frame specified by the City Engineer. This subsection shall not be construed to prohibit the City Engineer or the City from taking enforcement action as to past or present violations, notwithstanding their correction.

(Ord. No. 6559, § I, 10-9-2001)