

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING CHAPTER 26 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE SUBDIVISION PLAT APPROVAL PROCESS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen, Texas is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

**WHEREAS**, during the 88<sup>th</sup> Texas Legislative Regular Session, the Texas Legislature passed, and the Governor signed into law, House Bill 3699, which amended Texas Local Government Code Sec. 212.0065 by expanding the governing body's authority to delegate plat approval authority to one or more officers or employees of the municipality; and,

**WHEREAS**, the City of Killeen has declared the application and enforcement of the City's subdivision regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare of the City; and,

**WHEREAS**, the City Council desires to amend its regulations pertaining to the subdivisions plat approval process by delegating plat approval authority to Development Services staff; and

**WHEREAS**, the City of Killeen finds it necessary to amend Chapter 26 of the Code of Ordinances to provide for clarity, efficiency, and ensure compliance with newly adopted State Law while protecting the health and welfare of the general public and ensuring effective protection of the residents, infrastructure, and natural resources.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 26 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

## **Sec. 26-2. Definitions.**

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words not specifically defined shall have the meanings given in Webster's Ninth New Collegiate Dictionary, as revised.

*Accessory structure or building* shall mean a subordinate structure or building customarily incident to and located on the same lot occupied by the main structure or building.

*Applicant* shall mean the owner(s) of the property to be developed or platted.

*Bond* shall mean any form of security, including a cash deposit, surety bond, or instrument of credit in an amount and form approved by the city.

*Brother-sister group* means a group of two (2) or more organizations where the same five (5) or fewer common owners own a controlling interest in each group and taking into account the ownership of each common owner only to the extent ownership is identical with respect to each organization, the common owners are in control of more than fifty (50) percent of each organization.

*Building* shall mean any structure designed or built for the support, enclosure, shelter or protection of persons, animals, chattel or property of any kind.

*City standards* shall mean those standards and specifications, together with all tables, charts, graphs, drawings and other attachments hereinafter approved and adopted by the city council, which may be amended from time to time, and are administered by the city staff for the construction and installation of streets, sidewalks, drainage facilities, water and sanitary sewer mains and any other public facilities. All such facilities which are to become the property of the city upon completion must be constructed in conformance with these standards.

*Commission* shall mean the duly organized body appointed by the city council as the planning and zoning commission.

*Common ownership* shall mean owned by the same person or owned by persons within a parent-subsidary group, brother-sister group, or a combination of those groups subject to the constructive ownership and attribution rules located in the Internal Revenue Code, I.R.C. § 1563(e).

*Common plan of development* shall mean a construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A

common plan of development (also known as a "common plan of development or sale") is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contracts, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities. A common plan of development does not necessarily include all construction projects within the jurisdiction of a public entity (e.g. a city or university). Construction of roads or buildings in different parts of the jurisdiction would be considered separate "common plans," with only the interconnected parts of a project being considered part of a "common plan" (e.g. a building and its associated parking lot and driveways, airport runway and associated taxiways, a building complex, etc.). Where discrete construction projects occur within a larger common plan of development or sale, but are located one-fourth ( $\frac{1}{4}$ ) mile or more apart, and the area between the projects is not being disturbed, each individual project can be treated as a separate plan of development or sale, provided that any interconnecting road, pipeline or utility project that is part of the same "common plan" is not included in the area to be disturbed.

*Construction plans* shall mean the maps, drawings and technical specifications, including bid documents and contract conditions, where applicable, which provide a graphic and written description of the character and scope of the work to be performed prepared for approval by the city for construction.

*Controlling interest* shall mean the following:

In the case of a corporation, ownership of stock having at least eighty (80) percent of the total combined voting power of all classes of stock entitled to vote of such corporation or at least eighty (80) percent of the total value of shares of all classes of stock of such corporation.

In the case of a trust or estate, ownership of an actuarial interest of at least eighty (80) percent of such trust or estate.

In the case of a partnership, ownership of at least eighty (80) percent of the profits interest or capital interest of such partnership.

In the case of a sole proprietorship, ownership of the sole proprietorship.

*Developer* shall mean any person, corporation, governmental or other legal entity engaged in the development of property by developing, improving, or subdividing a tract or parcel of land for any use. The term "developer" is intended to include the term "subdivider."

*Development* shall mean the construction, structural alteration, relocation, or enlargement of one (1) or more buildings or structures on a site, or the installation of site improvements or infrastructure.

*Development review committee* shall mean a committee consisting of members of city staff which shall review all plats submitted to the city for consideration for compliance with the city's standards, policies, resolutions, codes, and ordinances.

*Drainage design manual* shall mean the City of Killeen's adopted Drainage Design Manual, as amended, providing definitions, formulae, criteria, procedures, data, parameters, and methodology governing the planning, design, construction, and maintenance of drainage infrastructure within the city's jurisdiction.

*Easement* shall mean a grant by a property owner to the public, a corporation, or persons for a general or specific use of a defined strip or parcel of land, for such purpose as the installation, construction, maintenance and/or repair of utility lines, drainage ditches or channels, or other public services, the ownership or title to the land encompassed by the easement being retained by the owner of the property.

*Engineer* shall mean any person duly authorized under the Texas Engineering Practice Act (V.A.C.S. art. 3271a), as amended, to practice the profession of engineering.

*Engineering plans* shall mean the maps and drawings prepared by an engineer, that are required for approval of a plat, construction plan, or associated permit.

*Executive Director* shall mean the Executive Director for the Department of Development Services.

*Extraterritorial jurisdiction* shall mean that unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the city, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for such distances as may be stipulated in V.T.C.A., Local Government Code, section 42.001 et seq.

*Flag lot* shall mean a lot having access to a street by means of a narrow strip of land with a width less than the minimum required lot width.

*Infrastructure Design and Development Standards Manual (IDDSM)* shall mean the city of Killeen's adopted infrastructure design and development standards manual, as amended, providing definitions, formulae, criteria, specifications, details, procedures, data, parameters and methodology governing the planning, design, construction, and maintenance of water, sewer,

drainage, street and associated infrastructure and, further detailing pollution control measures within the city's jurisdiction.

*Land disturbing activity* shall mean any activity including, without limitation, the clearing, grading, filling, grubbing, scraping, dredging, mining, paving, excavating, drilling or movement of land, or the construction of any building or structure, the stockpiling of soil or materials, the baring of soil or rock, the diversion or piping of any natural or man-made watercourse, or any other activity that will or may result in soil erosion from water or wind, the movement of solid materials into waters or onto adjacent lands, or that changes the volume or peak flow discharge rate of storm water runoff from the land surface.

*Lacustrine* shall mean pertaining to, formed in, growing in, or inhabiting lakes.

*Level of service (LOS)* shall mean a qualitative measure of roadway capacity and intersection delay. as set forth in the edition of the Highway Capacity Manual approved by the city engineer.

*Lot* shall mean an undivided tract or parcel of land having access to a street, which is designated as a separate and distinct tract or lot number or symbol on a duly approved plat filed of record. The terms "lot" and "tract" shall be used interchangeably.

*Master plan* shall mean the comprehensive plan of the city adopted by the city council and shall include, but is not limited to, the thoroughfare plan, parks master plan, downtown plan, water and wastewater master plan, and drainage master plan.

*North Killeen Revitalization Area* shall mean a geographic area bounded by W. S. Young to the east, Fort Hood Street to the west, the northern city limits to the north, and West Hallmark Avenue and Terrace Drive to the south.

*Notice of Intent (NOI)* - see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

*Off-site* shall mean any premises not located within the property to be developed, regardless of ownership.

*Owner* shall mean any persons, firm or corporation having legal title to the property.

*Parent-subsidiary group* means a group of two (2) or more organizations connected through a common parent who owns a controlling interest in the other organization(s).

*Person* shall mean any individual, firm, partnership, corporation, association, estate, trust or organization. It also includes the singular and plural.

*Plat* shall mean a map representing a tract of land showing the boundaries of individual properties and streets or a map, drawing, chart, or plan showing the layout of a proposed subdivision into lots, blocks, streets, parks, school sites, commercial or industrial sites, drainageways, easements, alleys, which an applicant submits for approval and a copy of which he intends to record with the county clerk of Bell County.

*Plat, final*, shall mean the map or plan of a proposed development submitted for approval by the designated plat approval authority, prepared in accordance with the provisions of this chapter and requested to be filed with the county clerk of Bell County.

*Plat, preliminary*, shall mean the initial map or plan of a proposed development showing the general layout of streets, blocks and lots, utility systems, and drainage systems, which is not recorded with the county clerk of Bell County.

*Right-of-way* shall mean a strip of land acquired by dedication, prescription or condemnation and intended to be occupied by a road, sidewalk, railroad, electric transmission facility, oil or gas pipeline, water mains, sewer mains, storm drainage or other similar facility. Rights-of-way intended for streets, sidewalks, water mains, sewer mains, storm drainage, or any other use involving maintenance by a public agency shall be dedicated to the public use by the plat applicant either by easement or in fee simple title.

*Storm Water Pollution Prevention Plan (SWPPP)* - see Texas Commission on Environmental Quality General Permit TXR150000, as amended.

*Street tree* shall mean a required tree planted within the public right-of-way between the back of the curb and the sidewalk.

*Streets and alleys* shall mean a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, alley, place or however otherwise designated. City streets shall conform to the following classifications:

- (1) Principal arterials provide a high degree of mobility by serving travel between major destinations or activity centers, as well as long-distance traffic that goes through or bypasses an area. Access points are limited.
- (2) Minor arterials are intended to connect traffic into and between the principal arterial system. They can serve trips of moderate length by connecting smaller geographic areas.

- (3) Collector streets provide a balance between mobility and access, primarily serving to "collect" traffic from local streets and provide connections to arterials. Collectors provide traffic circulation within residential areas or commercial districts. Collectors are broken down into subcategories of residential, commercial, and mixed-use based on the adjacent land use.
- (4) Minor streets are those which are used primarily for access to abutting properties.
- (5) Marginal access streets are minor streets located parallel to and adjacent to arterial streets and highways, providing access to abutting properties and protection from the traffic of the thoroughfares.
- (6) Local streets offer lower mobility but provide the highest degree of access to adjacent land. Local streets have low posted speed limits.
- (7) Alleys are minor ways used primarily for access to abutting properties for vehicle service usually to the back or side of a property.

*Structural alterations* shall mean the installation or assembly of any new structural components, or any change to existing structural components, in a system, building or structure.

*Structure* shall mean anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types and ground signs, but exclusive of customary fences or boundary or retaining walls.

*Subdivision* shall mean dividing a tract in two (2) or more parts for the purpose of creating lots, including an addition to the city, to lay out suburban, building or other lots or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to the public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks or other parts. "Subdivision" refers to any division irrespective of whether the actual division is made by metes and bounds description in a deed of conveyance or a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A subdivision does not include a division of land into parts greater than five (5) acres, where each part has access and no public improvement is being dedicated.

*Traffic impact analysis (TIA)* shall mean a specialized engineering study that determines the potential traffic impacts of a proposed traffic generator or development.

*Tree lawn* shall mean a strip of land within the public right-of-way between the curb and the sidewalk in which street trees and landscaping are planted.

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**Sec. 26-10. Restriction on issuance of permits.**

- (a) Except as provided below, the municipality, a county or an official of another governmental entity may not issue a building permit or any other type of permit for development on lots or tracts subject to this subchapter until a plat is filed with and approved in accordance with this chapter and chapter 212 of the Local Government Code.
- (b) A plat is not required for the issuance of a building permit for properties located in the North Killeen Revitalization Area if the following conditions are met:
  - (1) The building permit is for the construction of a single-family or two-family dwelling and related accessory structures;
  - (2) The current boundaries of the property existed in the same configuration since prior to the date of adoption of this ordinance; and
  - (3) The city has determined there is no need for right-of-way dedication.
  - (4) The above notwithstanding, the City reserves the right to require easements by separate instrument during the building permitting process.
- (c) A plat is not required for the issuance of a permit for the installation, repair, replacement, or removal of a sign or fence.

**Sec. 26-11. Approval of development plat.**

- (a) Any person who proposes the development of a tract of land located within the corporate limits or in the extraterritorial jurisdiction of the municipality must have a development plat of the tract prepared in accordance with this chapter, and in accordance with Texas Local Government Code section 212.045.
- (ab) Development plats shall be submitted to the Development Services Department in accordance with procedures established by this chapter.
- (bc) The development plat shall be approved if the plat conforms to:
  - (1) The general plans, rules, and ordinances of the municipality.
  - (2) The general plans, rules, and ordinances for the extension of the municipality taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities.



- (3) Any general plans, rules, or ordinances adopted under this chapter.

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**Sec. 26-21. Fees.**

The applicant for approval of a preliminary plat or final plat, including a replat, amended plat, minor plat, development plat; or subdivision variance, shall, upon submission of the application and all required documentation, pay a nonreturnable fee, as established by the city council, for the review and processing of the application. Upon approval of a final plat the applicant shall pay an additional recording fee established by the county for recording the plat with the county clerk.

**Sec. 26-22. Schedule.**

The planning and zoning commission, at its first regular meeting in December of each year, shall adopt a schedule for the next calendar year establishing dates for filing plat applications and meetings of the planning and zoning commission.

**Sec. 26-23. Process for approval.**

- (a) Prior to the submission of a preliminary plat, plat applicants are encouraged to schedule and attend a pre-application meeting with city staff.
- (b) Prior to submitting a plat application for review, the applicant shall ensure that the property is appropriately zoned for the proposed development. Plat applications that do not conform with zoning requirements will not be accepted.
- (c) Upon receipt of a completed plat application, the plat will be reviewed by Development Services staff for conformance with all applicable requirements. The Development Services Department will not accept incomplete plat applications.
- (d) The applicant shall assure that there is no outstanding debt owed the city required by this chapter on a previous plat(s) submitted by the applicant. Plat applications will not be accepted from applicants who have outstanding debt.
- (e) If, upon review of a plat application, it is determined that a plat does not conform to the requirements of this chapter, the applicant may submit a subdivision variance application in accordance with Sec. 26-25. The subdivision variance application may be submitted for consideration by the planning and zoning commission at their next available meeting. If a plat application requires a subdivision variance, the applicant may submit in writing a request for a thirty (30) day plat extension. If such a request is not submitted prior to the

thirty (30) day deadline for approval, approval with conditions, or disapproval of a plat, the plat application shall be disapproved by the Executive Director or designee.

- (f) The Executive Director or designee shall have the authority to disapprove a plat that does not comply with the requirements of this chapter or does not conform to the adopted plans and standards of the city. The City Engineer may make a recommendation to the Executive Director or designee regarding approval or disapproval of a plat based upon standard engineering principles.
- (g) Within thirty (30) days of the date a plat application is filed, the plat shall be approved, approved with conditions, or disapproved by the Executive Director, or designee. The Executive Director, or designee, shall notify the applicant in writing regarding the determination that a plat application has been approved, approved with conditions, or disapproved. If a plat application is conditionally approved, Development Services staff shall provide the applicant with a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval.(h) Reserved.
- (i) If the plat is conditionally approved or disapproved by the Executive Director, or designee, the applicant may submit a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. The Executive Director, or designee, shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved plat not later than the 15th day after the date the response was submitted that satisfies each condition for the conditional approval or remedies each reason for disapproval provided.
- (j) An applicant may withdraw his plat application from consideration at any time during the application process by filing a written notice of withdrawal with the Development Services Department. Upon filing the notice to withdraw, the Development Services Department shall discontinue processing the plat application. If the applicant wishes to proceed with further consideration following withdrawal of the plat application, the applicant shall be required to repeat the plat application process from the beginning and pay the standard application fees.

**Sec. 26-24. Reserved.**

**Sec. 26-25. Subdivision variances.**

- (a) Whenever a tract to be developed is of such unusual size or shape or is surrounded by development of such unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity, the planning and zoning commission may grant a variance from the regulation of this chapter when, in their opinion, undue hardship will result from requiring strict compliance.
- (b) The planning and zoning commission may grant a variance to the requirements of design as provided for herein, but may not grant a variance for process or procedures, such that the developer may improve his/her property in a reasonable manner, but at the same time, the public welfare and interests of the city are protected and the general intent and spirit of this chapter, the comprehensive plan, and zoning ordinance are preserved. A variance to the provisions of this chapter shall be considered an exception to the regulations, rather than a right.
- (c) If a plat application requires a variance to the provisions of this chapter, an application for a variance from a subdivision requirement shall be submitted and approved prior to submitting an application for preliminary plat or, if a preliminary plat is not required, prior to submitting an application for a final plat.

An application for a subdivision variance shall be accompanied by a request letter from the applicant stating how the subdivision variance criteria have been met, and a nonrefundable application fee, as established by the city council.

- (d) In granting approval of a request for a subdivision variance, the planning and zoning commission shall conclude that the requested variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and that the variance observes the spirit of this chapter and concludes that substantial justice is done. No subdivision variance shall be granted unless the commission finds:
  - (1) That, due to special circumstances or conditions inherent to the property, the strict application of the provisions of this chapter would result in an unnecessary hardship or deprive the applicant of the reasonable use of his land;
  - (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

- (3) That the granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with the provisions of this chapter;
  - (4) That the appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
  - (5) That the hardship from which relief is sought is not solely of an economic nature;
  - (6) That the applicant has not created the hardship from which relief is sought;
  - (7) That in granting the variance, the public convenience and welfare will be substantially served; and
  - (8) That in granting the variance, the spirit of the ordinance is observed, and substantial justice is done.
- (e) In making the findings required herein, the commission shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, the possibility that a nuisance will be created, and the probable effect of such waiver upon traffic conditions and upon public health, convenience, and welfare of the vicinity.
- (f) Such findings of the commission shall be incorporated into the official minutes of the meetings at which such variance is granted.

**Sec. 26-26. Recordation.**

- (a) Preliminary plats are not recorded with the county clerk.
- (b) All plats pertaining to platted property located in the extraterritorial jurisdiction of the city shall only be recorded after approval by the Executive Director, or designee, and the commissioners' court of the county, as applicable, and the applicant's submission of the required recording fee.
- (c) All plats meeting the criteria of this chapter shall be recorded with the county clerk upon the Executive Director or designee's approval of the plat and the applicant's submission of the required recording fee.
- (d) The applicant may elect to have the final plat recorded prior to acceptance of infrastructure by providing a guarantee of completion to the city in accordance with section 26-84. If all conditions, fees, or improvements are not completed within two years of being released for construction, then the final plat approval shall expire unless an extension is applied for and granted, due to ongoing progress towards completion of the project by the Executive D

irector, or designee. The request for an extension shall be submitted at least thirty (30) days prior to the date the final plat expires.

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**Sec. 26-41. Form, contents and required documentation.**

- (a) Preliminary plats shall include the entire tract of land under common ownership or common plan of development.
  - (1) Where property is part of a common plan of development, not under common ownership, a preliminary plat shall be filed that incorporates existing, approved preliminary or final plat(s) within the common plan area.
- (b) Preliminary plats are optional for amending, minor, or development plats not requiring the extension of municipal infrastructure. Those plat applicants may elect to proceed to the final platting requirements in division 3 without filing a preliminary plat. Preliminary plats are mandatory for all other submissions.
- (c) Preliminary plat applications shall be filed with the Development Services Department. The following words shall appear on the face of each preliminary plat: "Preliminary plat not for record."
- (d) When a preliminary plat application is filed with the Development Services Department, it shall be accompanied by the following minimum documentation:
  - (1) Completed preliminary plat application signed by the property owner or in the case of a corporation/partnership, a party empowered to sign such actions (supported with authorizing documentation);
  - (2) Two (2) twenty-four-inch by thirty-six-inch paper copies of the plat;
  - (3) One (1) eleven-inch by seventeen-inch paper copy of the engineering plans;
  - (4) A digital copy of the plat in .pdf format;
  - (5) A digital copy of the plat in .dwg format;
  - (6) Two (2) twenty-four-inch by thirty-six-inch paper copies of engineering plans and one (1) digital (.pdf format) version of the same;
  - (7) Deed showing current ownership of the platted property;
  - (8) Field notes of the property to be platted, which shall be signed and sealed by a registered professional land surveyor;
  - (9) Tax certificates showing property owner is not in arrears in payment of taxes; and

- (10) Nonrefundable application fee, as established by the city council.
  - (11) Preliminary access/drainage letter granted by the Texas Department of Transportation for any plat with frontage on state managed rights-of-way identifying TxDOT's preliminary determination of access points and any drainage concerns that TxDOT desires to call to the city's attention.
  - (12) Additional items, as may be required on the subdivision plat application checklist.
- (e) Preliminary plats must meet the following criteria and contain the following information:
- (1) Scaled drawing no smaller than one (1) inch = two hundred (200) feet on a sheet size of twenty-four (24) inches by thirty-six (36) inches (multiple sheets may be submitted; however, each sheet must be registered and match lines to allow assembly of the multiple sheets, and an index sheet shall be drawn on a sheet twenty-four (24) inches by thirty-six (36) inches showing the entire property being platted);
  - (2) Boundary of the subject tract, indicated by a heavy bold line, and the computed acreage of land within the plat boundary;
  - (3) The location of all existing and/or proposed streets, alleys, sidewalks and multi-use paths, with existing and/or proposed street names, right-of-way widths, cul-de-sac dimensions, and relation to surrounding existing street patterns;
  - (4) Location, size, and purpose of, and deed or plat record information for, all existing easements and proposed municipal easements on or adjacent to the proposed subdivision;
  - (5) Location, size, and purpose of any existing or proposed areas dedicated for public use within or adjacent to the proposed subdivision, including total acreage of proposed new rights-of-way;
  - (6) Conceptual location of all proposed lots and blocks, with consecutive numbers to identify each lot and block;
  - (7) Layout, in dashed lines, of all existing adjacent lots to the property being platted showing lot size, lot and block numbers, name of existing subdivision or property owner if undeveloped property;
  - (8) Location, size, and centerline of all existing and proposed utilities;
  - (9) Conceptual drainage information (i.e. detention pond location and approximate size, creek buffer zone, drainage infrastructure, other storm water conveyance systems, and

location of the following proposed storm water management site plan areas: riparian buffers, preserved natural areas, linear parks, open space areas, protected environmentally sensitive areas, conservation easements, and preserved tree canopy, if applicable);

- (10) FEMA designated special flood hazard boundaries, if applicable, or a certified statement that no portion of the plat lies within a FEMA designated special flood hazard area;
  - (11) Topographic information, including contours at two-foot intervals and identification of source with date;
  - (12) The location, approximate dimensions, and descriptions of existing watercourses and drainage infrastructure within and contiguous to the proposed subdivision;
  - (13) Label or identify the proposed number of residential lots and blocks, average lot size, and provide a typical detail for each size of proposed lot if applicable;
  - (14) Proposed phasing, with demonstrated sufficiency and viability of public infrastructure for each phase such that an undue burden is not placed on any particular phase. Phasing shall occur in sequential order in such a way as to not create phases that are not developable within compliance with other provisions of the Code;
  - (15) Date, graphic and written scale, north arrow, and inset location map;
  - (16) Name and address of all property owners of the property being platted;
  - (17) Name and address of engineer and surveyor;
  - (18) Signed statement of the engineer and/or surveyor who prepared the preliminary plat indicating the records or survey from which the property description of the boundary of the proposed plat was developed; and
  - (19) As-built drawing of existing structures, if applicable.
- (f) A preliminary plat will expire two (2) years after approval. Each final plat, which is a phase of an approved preliminary plat, shall extend the expiration date of the preliminary plat an additional two (2) years from the date the final plat was approved. Nothing herein shall reduce the initial two-year permit period.
- (g) All items submitted under subsection 26-41(e) shall be in compliance with the city's currently adopted zoning regulations, construction standards, infrastructure design and development

standards manual, drainage design manual, pavement design manual, thoroughfare plan, and master plans, except as otherwise allowed by state law.

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**Sec. 26-51. Form, contents, and required documentation.**

- (a) Final plats are mandatory in accordance with section 26-5.
- (b) In cases where a preliminary plat was previously approved, the final plat shall substantially conform to the approved preliminary plat. For purposes of this section, substantial conformance shall mean eighty (80) percent or more.
- (c) If the plat requires the extension of public infrastructure, construction of the infrastructure shall be completed or bonded before the final plat can be deemed filed in accordance with subsection 26-23(f) and 26-84.
- (d) Final plats shall be filed with the Development Services Department and shall be accompanied by the following minimum documentation:
  - (1) Completed final plat application signed by the property owner or in the case of a corporation/partnership, a party empowered to sign such actions (supported with authorizing documentation);
  - (2) Two (2) twenty-four-inch by thirty-six-inch paper copies of the plat;
  - (3) A digital copy of the plat in .pdf format.
  - (4) A digital copy of the plat in .dwg format.
  - (5) Deed showing current ownership of the platted property;
  - (6) Dedication instrument, which shall be a signed and notarized original;
  - (7) Field notes of the property to be platted, which shall be signed and sealed by a registered professional land surveyor;
  - (8) A statement on the plat application showing that all fees owed the city on any prior projects have been paid in full at the time the application was filed;
  - (9) Nonrefundable application fee, as established by the city council; and
  - (10) Preliminary access/drainage letter granted by the Texas Department of Transportation for any plat with frontage on state managed rights-of-way identifying TxDOT's preliminary determination of access points and any drainage concerns that TxDOT desires to call to the city's attention.
- (e) Final plats must meet the following criteria and contain the following information:



- (1) Scaled drawing no smaller than one (1) inch = two hundred (200) feet on a sheet size of twenty-four (24) inches by thirty-six (36) inches (multiple sheets may be submitted; however, each sheet must be registered and match lines to allow assembly of the multiple sheets and an index sheet shall be drawn on a sheet twenty-four (24) inches by thirty-six (36) inches showing the entire property being platted);
- (2) Date, graphic and written scale, north arrow, and inset location map;
- (3) Boundary of the subject tract, indicated by a heavy bold line, and the computed acreage of land within the plat boundary;
- (4) Name and address of all property owners of the property being platted;
- (5) Name and address of engineer and surveyor;
- (6) Number of proposed lots and blocks, with consecutive numbers to identify each.
- (7) Number of proposed tracts, identified by letter, with the size and purpose of each tract identified on the plat.
- (8) The lot width and square footage of each proposed lot shall be noted on the graphic, or in a table on the plat.
- (9) The length of all-straight lines, deflection angles, radii, arcs, and central angles of all curves shall be given along the property lines of each street or tabulated on the same sheet showing all curve data with its symbol. All dimensions along the lines of each lot with the angles of intersections that they make with each other shall be indicated;
- (10) The names of all adjoining subdivisions, the side lines of abutting lots, lot and block numbers, all in dotted lines, and accurate reference ties to at least two (2) adjacent, existing controlling property monuments shall be clearly indicated;
- (11) The description and location of all survey monuments on the property being platted shall be indicated;
- (12) A title shall be indicated, including the name of the property being platted, the name of the applicant and scale and location of the property being platted with reference to original surveys and a north arrow.
- (13) All FEMA-designated flood hazards shall be indicated. These shall include, the floodway boundary, 100-year floodplain limits, base flood elevation (BFE) contours, flood zone designations (Zone "X" inclusive), and all other essential flood insurance study data. The panel number, effective date, and map number of each referenced

National Flood Insurance Program (NFIP) map shall be cited. Where required, the lowest finish floor elevation (FFE) shall be determined for each affected lot. The BFE and FFE for each lot shall be summarized in a table. All NFIP map changes or map revision data submitted to FEMA shall be indicated in like manner;

(14) Avigation notation, if required, as prescribed in subsection 26-29;

(15) A surveyor's certificate shall be placed on the final plat:

KNOW ALL MEN BY THESE PRESENTS:

That I, \_\_\_\_\_, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the Subdivision and Property Development Regulations of the City of Killeen, Texas, and in accordance with State surveying standards. Signature Texas Reg. No.

(16) A certificate of ownership and of the dedication of all streets, alleys, easements, and lands to public use forever, signed and acknowledged before a notary public by the owner of the land, shall appear on the face of the map, containing complete and accurate description of the property being platted and the streets dedicated.

(17) A tax appraisal district affidavit shall be placed on the final plat:

The Tax Appraisal District of Bell County does hereby certify there are currently no delinquent taxes due to the Tax Appraisal District of Bell County on the property described in this Plat.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ Bell County Tax Appraisal District

(18) A certificate of approval of a final plat by the Executive Director, or designee, shall be placed on the plat.

Approved this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, by the Executive Director of Development Services, or designee.

(f) All items submitted under subsection 26-51(e) shall be in compliance with the city's currently adopted zoning, construction standards, infrastructure design and development standards manual, drainage design manual, pavement design manual, thoroughfare plan, and master plans, except as otherwise allowed by state law.

(g) A subdivision plat must use grid bearings and horizontal distances in feet, referenced in NAD 1983 State Plane Texas Central FIPS 4203 Feet using Lambert Conformal Conic

projection. The subdivision's point of beginning must be referenced to a published City monument by bearing and distance. The description must close and be based on an actual field survey with an adjusted closure of a minimum of five (5) feet.

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**Sec. 26-61. Reserved.**

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**Sec. 26-73. Additional requirements for certain replats.**

- (a) In addition to compliance with section 26-72, a replat without vacation of the preceding plat must conform to the requirements of this section if:
  - (1) During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
  - (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
- (b) If a proposed replat as described in subsection (a) requires a variance or exception, a public hearing must be held by the planning and zoning commission. Notice of the hearing shall be given before the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county in which the municipality is located; and by written notice forwarded by the municipal authority responsible for approving plats to the owners of lots that are in the original subdivision and that are within two hundred (200) feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the municipality.
- (c) If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths ( $\frac{3}{4}$ ) of the members present at the meeting of the planning and zoning commission. For a legal protest, written instruments signed by at least twenty (20) percent of the owners of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200) feet from that area, but within the original

subdivision, must be filed with the planning and zoning commission prior to the close of the public hearing.

- (d) In computing the percentage of land area under subsection (b), the area of streets and alleys shall be included.
- (e) If a proposed replat does not require a variance or exception, the planning department shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within two hundred (200) feet of the lots to be replatted, as indicated on the most recently approved tax rolls. The notice of a replat approval must include the zoning designation of the property after the replat and a telephone number and e-mail address an owner of a lot may use to contact the planning department.

**Sec. 26-74. Reserved.**

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**Sec. 26-81. Construction of infrastructure.**

- (a) Construction plans for all proposed infrastructure to be constructed for the property may be submitted only after the preliminary plat has been approved by the planning and zoning commission. Construction plan applications shall be deemed filed when they are determined by staff to be administratively complete. Administratively complete shall mean that all required application materials have been submitted. Construction plans submitted shall substantially conform to the approved preliminary plat. For purposes of this section, substantial conformance shall mean eighty (80) percent or more.
- (b) The engineering division shall review the submitted plans for compliance with the infrastructure design and development standards manual, the drainage design manual, the current Pavement Design Manual, and other applicable construction standards adopted by the city and approve, approve with conditions, or disapprove the construction plans within thirty (30) days after the plans are filed. Upon approval with conditions or disapproval of construction plans, the applicant shall be provided with a written statement of the conditions for the conditional approval, or reasons for disapproval, that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement must be directly related to the requirements of V.T.C.A., Local Government Code, ch. 212, subch. A, and include a citation to statute or city

ordinance that is the basis for the conditional approval or disapproval. After the conditional approval or disapproval of construction plans, the applicant may submit to the Executive Director, or designee, a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided. Upon receipt of a response, the Executive Director or designee shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved construction plans not later than the 15th day after the date the response was submitted.

- (c) Upon review and consideration of release for construction of construction plans by engineering division, the plat applicant and/or the plat applicant's contractor will provide written notification to the engineering division of the intent to commence construction of the required infrastructure. No work may be performed unless written notification has been provided to the engineering division. The written notification shall contain the following information:
  - (1) Name of the plat or subdivision;
  - (2) Plat applicant's name;
  - (3) Contractor's name, address and phone number;
  - (4) Type of construction to be performed; and
  - (5) Estimated value of construction.
- (d) The engineering division shall issue an acknowledgment of receipt of notification to the developer and/or his contractor.
- (e) Construction plans submitted to the city for review are valid for two (2) years prior to release of a permit.
- (f) Once a construction permit is issued, the permit is valid for one (1) year. The Executive Director or designee is authorized to grant one (1) extension for a period of not more than one hundred eighty (180) days. Requests for an extension shall be submitted in writing by the applicant and just cause for the extension must be demonstrated.

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#### **Sec. 26-85. Agreements with the city.**

- (a) The city of Killeen may enter into a contract with a developer of a subdivision or land within the city to construct public improvements, not including a building, related to development. Under such contract, the developer shall construct the improvements and the city shall

participate in the cost. All agreements under this section shall be in writing and set forth in a form agreement approved by the city attorney.

(b) *General policies:*

- (1) The city/owner agreement must establish the limit of participation by the municipality at a level not to exceed thirty (30) percent of the total contract price.
- (2) In addition, the contract may also allow participation by the municipality at a level not to exceed one hundred (100) percent of the total cost for any oversizing of improvements required by the municipality, including but not limited to increased capacity of improvements to anticipate other future development in the area. The city shall be liable only for the agreed payment of its share of the contract which shall be determined and executed in advance.
- (3) The owner must deliver a performance bond executed by a corporate surety or corporate sureties duly authorized to do business in this state, payable to the city and approved by the city as to form, for construction included in the approved construction plans, in the penal sum of one hundred (100) percent of the cost to complete the public improvements insuring completion of the public improvements. A power of attorney shall be attached to the bond evidencing that the agent signing the bond has authority to sign the bonds on behalf of the surety. The city shall release the bond upon completion, final acceptance, and receipt of warranty bond for the public improvements subject to the city/owner agreement. The performance and warranty bond requirements set forth under this subsection may not be waived.
- (4) The owner will deliver to the city a certificate of insurance listing the city of Killeen as an additional insured on its commercial general liability insurance policy.
- (5) A written request for city participation shall be submitted by the developer prior to the initiation of construction. The request letter shall be accompanied by an exhibit depicting reimbursable items, estimated costs for construction, and the cost calculations for all reimbursable items, clearly indicating the cost for any additional capacity requested by the city.
- (6) All of the developer's books and other records related to the project shall be available for inspection by the municipality.

- (7) After construction and final acceptance of the improvements, the developer shall present a written request for reimbursement. A request for reimbursement shall be made within five (5) years of the effective date of the agreement.

(c) *Utilities:*

(1) *Water lines:*

- (a) The City may enter into an agreement to pay for the difference in the cost of City required water main size and the cost of the water main size required for the owner's development only. For example, if a large development requires a 10-inch water line to serve it but the water master plan requires a 16-inch water line to run through that area, then the city may enter into an agreement to pay for the difference between the cost of a 10-inch water line and a 16-inch water line.
- (b) Owner shall submit documentation to the engineering division detailing the total costs of the improvements meeting the minimum standards required by the city including costs for the oversizing of any improvements. Upon review of the proposed project and all submitted documentation, the city may enter into a city/owner agreement whereby the city may agree to pay up to one hundred (100) percent of the costs incident to the oversizing of improvements.

(2) *Sewer lines:*

- (a) The city may enter into an agreement to pay for the difference in the cost of city required wastewater main size and the cost of wastewater main size required for the owner's development only. For example, if a large development requires a 12-inch wastewater line to serve it but the wastewater master plan requires an 18-inch wastewater line to run through that area, then the city may enter into an agreement to pay for the difference between the cost of a 12-inch wastewater line and an 18-inch line.
- (b) Owner shall submit documentation to the engineering division detailing the total costs of the improvements meeting the minimum standards required by the city including costs for the oversizing of any improvements.
- (c) Upon review of the proposed project and all submitted documentation, the city may enter into a city/owner agreement whereby the city may agree to pay up to one hundred (100) percent of the costs incident to the oversizing of improvements.

(d) *Roads and drainage:*

- (1) Proposed streets must be in conformance with the city's adopted Comprehensive Plan and Thoroughfare Plan, except as otherwise allowed by State Law. The developer must design and construct the full cross section for all streets within or serving the development.
- (2) Where an arterial street is required, the property owner shall prepare a rough proportionality assessment to determine the portion of the improvement of infrastructure that is roughly proportionate to the impact of the proposed development. The developer shall be responsible for the design and installation of the development's proportionate share.
- (3) The city may, at its sole discretion, enter into a city/owner agreement wherein the city may pay the cost difference between the required cross section per subsection 26-85(d)(2) above and the street width requested by the city with any additional appurtenances, including engineering, not otherwise required. In the event the city does not enter into a city/owner agreement, the developer will be required to install the portion of the roadway determined to be roughly proportionate to the impacts of the development, which shall in no case be less than a local street.
- (4) The owner shall provide all rights of way for the width of the road, as required by the Thoroughfare Plan, except as otherwise allowed by State Law.
- (5) A city/owner agreement shall not be considered or approved for local/marginal access or collector streets within subdivisions or ingress/egress streets that are required to be widened for capacity reasons.
- (6) The developer may submit a request for a city/owner agreement for city participation in a regional detention facility or for the oversizing of drainage infrastructure in an area where known flooding exists, if improvements are designed to alleviate existing conditions. The regional detention facility or oversized drainage infrastructure must be identified in the city's adopted current drainage master plan and meet the requirements of the current drainage design manual and infrastructure design and development standards manual.

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**Sec. 26-111. General provisions.**



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- (d) Water and/or sewer service may not be extended outside the city limits without prior approval by the City Council.

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**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 20<sup>th</sup> day of August, 2024, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**APPROVED:**

\_\_\_\_\_  
Debbie Nash-King, MAYOR

**ATTEST:**

\_\_\_\_\_  
Laura J. Calcote, CITY SECRETARY

**APPROVED AS TO FORM:**

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Holli C. Clements, CITY ATTORNEY

