

**CITY OF WHITEHOUSE SUBDIVISION ORDINANCE 2004
CITY OF WHITEHOUSE ORDINANCE NO. 486**

AN ORDINANCE, ADOPTING GENERAL RULES GOVERNING AND REGULATING THE PLATTING, SUBDIVISION AND DEVELOPMENT OF LAND AS AUTHORIZED BY ARTICLES NO 974-A AND 970-A OF REVISED CIVIL STATUTES OF TEXAS GOVERNING PLATTING, RECORDING SUBDIVISION OF LAND: PROVIDING FOR SUBMITTING OF PRELIMINARY PLATS, FINAL PLATS, METHOD OF PROCEDURE AND INFORMATION REQUIRED: SETTING FORTH REQUIREMENTS FOR DEVELOPMENT AND IMPROVEMENTS OF STREETS, ALLEYS AND WAY: PROVIDING THAT ALL SUBDIVISIONS WITHIN THE CITY OF WHITEHOUSE AND WITHIN THAT CITY'S EXTRATERRITORIAL JURISDICTION SHALL COMPLY WITH THE TERMS AND PROVISIONS OF THIS ORDINANCE AND OTHER APPLICABLE ORDINANCES OF THE CITY OF WHITEHOUSE AND PROVIDING A PENALTY.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHITEHOUSE,
TEXAS:**

SECTION I

Purpose

This ordinance sets out the procedure and standards for submitting plats, for subdividing property, for the layout and development of lots, land and subdivisions within the City limits and extraterritorial jurisdiction and to guide and assist developers in correct procedures to be followed and to furnish information of standards required.

This ordinance is also intended to promote the safe, orderly and healthful development of the City by controlling the location, width, design and type of streets, sidewalks, storm sewers, culverts, bridges, utilities and essential services required.

SECTION II

Definitions

Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practice. As used in this ordinance, the following definitions shall apply:

Addition - One lot, tract or parcel of land lying within the City limits or extraterritorial jurisdiction that is intended for the purpose of development.

Adequate Public Facilities - Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the City Council based upon specific levels of service.

Alley - A public or private service way, which provides only a secondary means of public access to property abutting thereon and not, intended for general traffic circulation.

Amended Plat - A revised plat correcting errors or making minor changes to the original recorded final plat.

Amenity - An improvement to be dedicated to the public or the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this ordinance.

Applicant - The owner of land proposed to be subdivided or their representatives who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

Average Density - The average number of dwelling units per acre.

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed for a 100-year storm event.

Block - A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

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

Buffer Area - A strip of land, identified on a site plan or by zoning ordinance, established to separate physically and protect one type of land use from another land use that is incompatible. Normally, the area is landscaped and kept in open space.

Building - A combination of materials to form a construction that is safe and stable, and designed to be built for the support, enclosure, shelter or protection of persons, animals, cattle or property of any kind including, but not limited to, permanent or continuous occupancy for assembly, business, education, industrial, institutional, mercantile, residential or storage purposes. The term building shall be construed to include the term "structure", and as if followed by the words, "or portion thereof". When subdivided in a manner sufficient to prevent the spread of fire, each portion so subdivided may be deemed a separate building.

Building Official - The Chief Building Inspector or designee responsible for issuing building permits and charged with the administration and enforcement of the City construction codes.

Building Setback Line - A line, established by this Ordinance, parallel or approximately parallel to the front lot line at a specific distance therefrom, marking the minimum distance from the front lot line that a building may be erected, except or unless as specifically provided in this Ordinance.

City Engineer - The official with responsibility to review and release plans for construction projects other than water and sewer improvements, or designee.

Collector - Street that serves the internal traffic movement within an area of the City, such as a subdivision or commercial area, and connects this area with the arterial street system.

Comprehensive Plan - A plan for development of the City prepared and adopted by the Council, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Commission - The Planning & Zoning Commission for the City of Whitehouse.

Concurrency - Requirement that development applications demonstrate that adequate public facilities be available at prescribed levels of service concurrent with the impact or occupancy of development units.

Construction Plan - The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the Commission as a condition of the approval of the plat.

Contiguous - Lots are contiguous when at least one boundary line of one lot touches a boundary line(s) of another lot.

Conveyance Plat - An interim plat recording the subdivision of property or defining a remainder of property created by the approval of a final plat for a portion of property, where approval of final development plans is not sought.

Council - The Whitehouse City Council.

County - Smith County, Texas.

Cul-de-sac - A local street, one end of which is terminated and consists of an area for turning vehicles around.

Dedication Plat - A plat prepared for the purpose of dedicating land or easements for rights-of-way to the City.

Design Criteria - Standards that set forth specific improvement requirements.

Developer - The person, business, corporation or association responsible for the development of a subdivision, addition, or other properties. In most contexts the terms Developer and Property Owner are used interchangeably in these regulations.

Development - Any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, paving, drainage or utilities, but not agricultural activities.

Development Exaction - Any dedication of land or easements for construction of or contribution toward construction of a public improvement required as a condition of plat approval by the City under these regulations.

Director - The Whitehouse Director of Community Development or designee.

Drainage Way - All land areas needed to allow passage of the Base Flood, including sufficient access above the Base Flood elevation along each side of and parallel to the natural or excavated channel.

ETJ - Extraterritorial jurisdiction.

Easement - A right-of-way or parcel of land, specified or set aside for a specific use; normally for access, utilities, and other public or private usage, given by the owner of land to another party, and kept free from buildings or structures.

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

Exactions - Requirement of development to dedicate or pay for all or a portion of land costs of public facilities as a condition of development approval.

Final Plat - The map of a subdivision or addition to be recorded after approval by the Commission or Director and any accompanying material and additional requirements as described in these regulations.

Flood Plain - An area of land subject to inundation by a 100-year frequency flood.

Floodway - The channel of a stream or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation.

Floodway easement: An easement within the flood plain as defined herein which includes a channel, plus any adjacent flood plain area that must be kept free of encroachment and obstruction in order that the one hundred year frequency flood may be conveyed without increasing the flood elevation at any point on the channel by more than one foot. For streams analyzed in detail in the Federal Flood Insurance Study, its floodways and subsequent letters of map amendment shall be the criteria.

Frontage - The distance along a property line which is also the right-of-way line of a dedicated street or approved Private Street.

Frontage Street - Any street to be constructed by the developer or any existing street where development shall take place on both sides.

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

Industrial Park - A development of industrial sites, whether located inside or outside the City, which if developed within the City, would be required by the zoning ordinance to be located in an area zoned Light Industrial Business Park or General Industrial.

Local Street - A Street whose sole function is to provide access to abutting properties and to other streets from individual properties, and to provide right-of-way beneath it for sewer, water and storm drainage pipes.

Lot - A tract, plot or portion of a subdivision, addition or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession or for building development.

Lot, Corner - A lot or parcel of land abutting upon two or more streets at their intersection.

Lot Improvement - Any building, structure, place, work of art, or other object situated on a lot.

Lot of Record - A parcel of land having its existence, location, dimensions and ownership legally recorded or registered, by deed or plat, with the Smith County Clerk.

Metes and bounds – A description of real property by which property is not described by reference to Lot or Block, shown on a map, but is defined by starting at a known point and describing, in sequence, the lines forming the boundaries of the property.

Major Plat - All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat requiring creation of any new street or extension of City facilities.

Minimum Finished Floor Elevation - That mean sea level elevation above which the lowest occupied floor slab, not including garages, of any building shall be built. This elevation shall exceed the maximum surface elevation of the 100-year flood for nearby creeks and channels at that point of reach of said water course by at least one foot.

Minor Plat - A subdivision resulting in four or fewer lots and not requiring the creation of any new street or extension of municipal facilities.

Municipal Facility - An improvement owned and maintained by the City.

Off-Site Improvement - Any public improvement located outside the physical boundaries of the subdivision or addition to be platted.

Parcel - A continuous quantity of land in the possession of, owned by, or recorded as the property of, the same person(s).

Pavement Width - The portion of a street available for vehicular traffic. Where curb exists, it is the distance between the face of curbs.

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

Plat - A plan of a subdivision of land creating building lots or tracts and showing all essential dimensions and other information essential to comply with the Subdivision ordinance of the City and subject to approval by the Commission or Director and filed in the plat records of Smith County.

Platting - The act of preparing for approval and processing, pursuant to these regulations, the plan or map for the subdivision or addition to be filed for record in the County where such subdivision or addition is located; includes development plat unless otherwise noted.

Preliminary Plat - The preliminary drawing(s), described in these regulations, indicating the proposed manner or layout of the subdivision or addition to be submitted to the Commission for approval.

Primary Arterial - A road intended to move traffic to and from major attractions such as shopping centers, colleges, major industrial employers, and similar traffic generators within the governmental unit.

Private Streets & Alleys - A private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of this ordinance. The term private street shall be inclusive of alleys.

Property Owner - Any person(s), firm(s), corporation(s), or any other legal entity having legal title to or sufficient proprietary interest in the land comprising the subdivision or addition, or any representative or agent thereto, who has express written authority to act on behalf of such owner.

Public Facilities - Any buildings or facilities which are owned, leased, primarily used and/or primarily operated by the City including, but not limited to, Transportation Services, Utility Services, Transmission Lines, Metering Facilities, and Recreation Facilities/Services.

Public Improvement - Any drainage way, roadway, parkway, sidewalk, utility, pedestrian way, off-street parking area, lot improvement, open space, or other facility for which the City or other governmental entity will ultimately assume responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Public Way - An officially approved, privately maintained drive constructed to City street standards, open to unrestricted and irrevocable public access

Remainder - The residual land left after platting of a portion of a tract. Platting of a residual may in some instances be required under the provisions of this ordinance.

Replatting - Any change in a map of an approved or recorded plat, except as permitted as an amended plat, that affects any street layout on the map or area reserved or dedicated thereon for public use or any lot line, or that affects any map or plan legally recorded prior to adoption of any regulations controlling subdivisions or additions. Replatting includes the combination of lots into a single lot for purposes of development.

Resubdivision - The replatting of a subdivision plat. Any change in an approved or recorded subdivision plat that affects any street layout or area reserved thereon for public use or any lot line, or that affects a map or plan legally recorded prior to adoption of any regulations controlling subdivisions.

Right-of-Way - A strip or parcel of land occupied or intended to be occupied by a street or alley. Where appropriate right-of-way may include other facilities and utilities, such as sidewalks, railroad crossings, electrical, communication, oil or gas, water or sanitary or storm sewer facilities, or for any other special use. The use of right-of-way shall also include parkways and medians outside of pavement. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

Secondary Arterial - A road intended to collect and distribute traffic in a manner similar to a primary arterial, except these roads service minor traffic generators such as commercial areas, hospitals, churches, and offices and is designed to carry traffic from collector streets to the system of primary arterials.

Security - The letter of credit or cash escrow provided by the applicant to secure its promises in the improvement agreement.

Setback - The distance between a building and the property line nearest to the building.

Sidewalk – a paved walk, separated from a street, and intended for the movement of pedestrian traffic and built to City of Whitehouse specifications.

Street - Any thoroughfare or public way, other than an alley, which has been dedicated to the public for public use.

Sub divider - Any person who (1) having an interest in land causes it, directly or indirectly, to be divided into a subdivision or platted as an addition or, who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision or addition, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or addition or any interest, lot, parcel site, unit or plat in a subdivision or addition, or who, (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

Subdivision - The division of any tract or parcel of land into two or more lots for the purpose, whether immediate or future, of offer, sale or for the purpose of development. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. Subdivision also includes Resubdivision. Subdivision also refers to the land to be so divided, as the context may indicate

Substandard Street - An existing street or highway that does not meet the minimum specifications in the City of Whitehouse Subdivision Design Guidelines, or if a State Highway or FM Highway does not meet the minimum Standard Specifications of the Texas Department of Transportation and is not constructed to the ultimate extent for the type of roadway it is designated for in the major thoroughfare plan. A standard street is a street or highway that meets or exceeds said standard specifications and major thoroughfare plan.

Temporary Improvement - Improvements built and maintained by an owner during construction of the development of the subdivision or addition and prior to release of the performance bond or improvements required for the short-term use of the property.

Tract - A lot. The term "tract" is used interchangeably with the term "lot", particularly in the context of subdivision, where a "tract" is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

Variance – A relaxation by the Planning and Zoning Commission of the dimensional regulations of this Ordinance where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this ordinance would result in unnecessary and undue hardship.

SECTION III

Area & Activities Subject to Subdivision Rules

- a. Except as otherwise provided, these regulations apply to all subdivisions of land, located within both the City limits and within the City's extraterritorial jurisdiction.
- b. The following types of subdivision do not require approval by the City. However, the City shall not extend utilities, provide access to public roads or issue building permits for the development of any property which has not received final plat approval, except as otherwise provided by this ordinance.
 1. The division of land into two or more parts where all parts are larger than 5 acres, where each part has access, and where no new building or improvement is proposed and no required public improvement is to be dedicated.
 2. The creation of a remainder of a tract caused by the platting of a portion of the tract provided the remainder is larger than 20 acres.
 3. The creation of a leasehold for agricultural use of the subject property, provided that the use does not involve the construction of a building(s) to be used as a residence or for any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.
 4. The division of property through inheritance, the probate of an estate, or by a court of law.
- c. Except as provided above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the Commission in accordance with these regulations.
- d. No building permit or certificate of occupancy shall be issued for any parcel or tract of land inside the City limits until such property has received final plat approval and is in substantial conformity with these subdivision regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.
- e. Land within an industrial park may be subdivided by metes and bounds unless such division includes the planning or development of a new street or access easement, floodway easement, or extension of City owned water and/or sewer mains to serve the property. Such development shall conform to all other rules and regulations set forth herein.

SECTION IV

Platting Procedures

- a. Applicable Law for Plat Approval.
 1. All applications for plat approval, including final plats, pending **on January 27, 2004** and which have not lapsed, shall be reviewed under regulations in effect immediately preceding the date of adoption of these regulations.
 2. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the City except as shall be expressly provided for in these regulations.
- b. General Procedure.
 1. Classification of Subdivisions and Additions - Before any land is platted, the property owner shall apply for and secure approval of the proposed subdivision plat or addition plat in accordance with the following procedures, unless otherwise provided by these regulations. Subdivisions are classified as major or minor, depending on the number of lots proposed and the extent of public improvements required.
 - (a) Minor subdivisions shall create no more than four lots and do not require the creation of a new street or the extension of municipal facilities. Minor subdivisions may be approved for residential and non-residential properties. Minor plat approval requires the submission of a final plat. The Director may approve minor plats or refer them to the Commission for action.
 - (b) Major subdivisions involve the creation of new streets, the extension of municipal facilities or the creation of more than four lots. Major subdivisions may be approved for residential and non-residential properties. Plats are considered major subdivisions if they create more than four lots or involve the creation of new streets or the extension of municipal facilities. The procedure for approving a major plat typically requires two steps: preliminary plat, and final plat.
 2. Official Submission Date for Items Requiring Commission and Staff Approval - For the purpose of these regulations, the date on which the application is first filed shall constitute the official submission date for the plat, after which the statutory period required for approval or disapproval of the plat shall commence. In order to comply with State law time requirements for plat review, the date of filing shall be when the application is received by the Office of Community Development on its designated monthly submission date.
 3. Approval Criteria - Applications for plat approval shall be evaluated for compliance with these regulations and requirements contained in the Design Guidelines for Subdivision Improvements, which are incorporated herein by

reference and with any other criteria, policies, rules and plans which are referenced elsewhere in these regulations.

Pursuant to State law, the Director is hereby authorized to approve minor plats. The Director may, for any reason, elect to present a minor plat to the Commission for approval. The Director may not disapprove a minor plat and shall refer any minor plat refused for approval to the Commission within 30 days of the official date of application.

4. Statutory Compliance Procedure - The Director shall place the application on a scheduled meeting of the Commission prior to the expiration of thirty (30) days following the official submission date. The Commission shall approve or disapprove the application at the meeting. If the Commission fails to approve or disapprove an application within 30 days of the official submission date, the application shall be deemed approved. Unless the Commission unconditionally disapproves the plat application within such period, the City shall continue to process the application for compliance with these regulations. The Commission shall consider the application within 30 days.
5. Application Forms and Procedures - The Director may establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a preliminary plat, replat, vacation of plat or final plat.
6. Extraterritorial Jurisdiction - Land in the City's extraterritorial jurisdiction is subject to platting, as provided by State law. The approval of a plat for land within the extraterritorial jurisdiction does not constitute approval of land use. Properties incorporated subsequent to platting are subject to the City's zoning authority.

SECTION V

Preliminary Plat

- a. Applicability - A preliminary plat is required for all major subdivisions prior to the construction of public improvements.
- b. Application Procedure and Requirements - On forms approved by the City, the applicant shall file for approval of a preliminary plat. The plat shall be prepared by or under the supervision of a registered public surveyor in the State of Texas and shall bear surveyors seal, signature and date on each sheet. The payment of all applicable fees shall be required at the time of submission.
 1. General Application Requirement – one Mylar and 16 copies of the proposed preliminary plat shall be at a scale of 1" = 100', unless otherwise approved by the Director, and shall be in a form substantially as follows:
 - (a) A title including the name of the subdivision, developer, engineer (or surveyor), name of survey, the scale, date, a north point and approximate acreage.
 - (b) The boundary lines of the tract to be subdivided with courses, angles, and distances, the property lines and names of record owners of adjoining property, easements, building lines, buildings and lots, physical features including water courses, ravines, bridges, culverts, drain pipes, sanitary and storm sewers, water mains, and other existing features on the property being developed and on undeveloped properties within two hundred (200) feet of the subject property.
 - (c) Contours based on U.S. Coast and Geodetic Survey mean sea level elevations at intervals, as required by the city engineer, or designee, of two (2) to five (5) feet, and approximate flood hazard lines delineating the limits of the flood plain on the unimproved property which have been determined by a registered professional engineer.
 - (d) Location and width of existing streets, street names, width between curbs, if paved, and alleys, within and adjacent to the property.
 - (e) The location, widths and names of all proposed streets, alleys or other public ways, all lots, blocks and all parcels of land to be dedicated for public use.
 - (f) A vicinity map shall be presented prior to submitting the preliminary plat, showing sufficient area to properly locate the proposed subdivision in relation to schools, parks, shopping centers, thoroughfares and highways.
 - (g) Description of subdivision by metes and bounds.
 - (h) Location of subdivision with respect to a corner of the survey or tract, or an original corner of the original survey of which it is a part.

2. Standards for Approval - No preliminary plat shall be approved by the Commission or City Council as applicable, unless the following standards have been met:
 - (a) Provision for installation and dedication of public improvements has been made.
 - (b) Plat conforms to applicable zoning and other regulations.
 - (c) Plat meets all other requirements of these regulations.
 - (d) Plat conforms generally to the Comprehensive Plan.

 3. Approval Procedure - After review of the preliminary plat, the report and recommendations of the Director concerning the application, the report and recommendation of the City Engineer on the construction plans, and any exhibits submitted at a public meeting, the applicant shall be advised of any required changes and/or additions. The Commission shall approve or disapprove the preliminary plat. One (1) copy of the proposed preliminary plat shall be returned to the owner with the date of approval or disapproval and the reasons therefore accompanying the plat. If the Commission disapproves the proposed preliminary plat, the applicant may execute an appeal.

 4. Effect of Approval - Approval of a preliminary plat also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval.

 5. Lapse of Preliminary Plat Approval - The approval of a preliminary plat shall be effective for a period of one (1) year from the date of approval by the Commission or the Council, at the end of which time the applicant must have submitted and received approval for a final plat. If a final plat is not submitted and approved within two (2) years, the preliminary plat approval shall be null and void, and the applicant shall be required to submit a new plat for land study review subject to the then existing zoning restrictions and subdivision regulations. (See subsection d. concerning extensions and reinstatement of approval.)
- c. Amendments to Preliminary Plat
1. At any time following the approval of a preliminary plat, and before the lapse of such approval, a property owner may request an amendment. The rerouting of streets, addition or deletion of alleys, or addition or deletion of more than 10% of the approved number of lots shall be considered a major amendment. The adjustment of street and alley alignments, lengths, and paving details; the addition or deletion of lots within 10% of the approved number and the adjustment of lot lines shall be considered minor amendments.

 2. The Director may approve a minor amendment. Refusal to approve shall be referred to the Commission. Major amendments may be approved by the Commission at a public meeting in accordance with the same requirements for the approval of a preliminary plat.

 3. Approval - The Commission shall approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment.

4. Retaining Previous Approval - If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the Commission, the applicant may withdraw the proposed major amendment or appeal the action of the Commission to the City Council.
- d. Extension and Reinstatement Procedure.
1. Sixty days prior to or following the lapse of approval for a preliminary plat, as provided in these regulations, the property owner may petition the Commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the Commission.
 2. In determining whether to grant such request, the Commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision regulations shall apply to the plat or study. The Commission shall extend or reinstate the plat or study, or deny the request, in which instance the property owner must submit a new application for approval.
 3. The Commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance with the original conditions of approval. The Commission may also specify a shorter time for lapse of the extended or reinstated plat or study than is applicable to original approvals.
- e. Exceptions. The preceding requirements for the preliminary plat in this Section are waived if the following criteria are met:
1. The subdivision is actually a re-subdivision of lots previously platted and filed of record in Plat Records, Smith County, Texas; or all proposed lots of the subdivision abut upon an existing street of adequate width such that no additional right-of-way is required; and in either case, no construction of public streets, alleys, storm sewers, sanitary sewers, or water mains is required within or for extension to the subdivision; and
 2. The developer first secures written permission from the Director to waive the preliminary plat and proceed directly to the final plat procedure.

SECTION VI

Final Plat

- a. Applicability - A final plat shall be required for subdivisions of property and the recording of single lots, if a preliminary plat has either been approved or waived pursuant to Section V.
- b. Application Procedure and Requirements - A final plat for minor subdivisions may be approved by the Director. A final plat for a major subdivision shall require approval by the Commission. Final plats shall comply with the preliminary plat where applicable. The application shall be accompanied by the following:
 1. One Mylar and 16 copies of the proposed final plat bearing all information specified in Section V, except the portion relating to contours, and the following language:

"Notice: Selling a portion of this addition by metes and bounds is a violation of city ordinance and state law and is subject to fines and withholding of utilities and building permits."

This notice does not apply to land within an Industrial Park.
 2. Formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the City Attorney. The plat shall be marked with a notation indicating the formal offers of dedication.
 3. The improvement agreement and security, if required, in a form satisfactory to the City Engineer, or designee, and shall include a provision that the property owner shall comply with all the terms of the final plat approval as determined by the Commission.
 4. A recording fee in an amount required by the County Clerk.
 5. Construction plans.
 6. One copy of plat and construction plans in digital format and one Mylar copy of plat as approved by Director.
 7. Original Tax Certificate as required by State law.
 8. A certificate, shown in Attachment A, of ownership and dedication of all streets, alleys, easements, and public areas, to the public use forever, signed and acknowledged before a Notary Public by the owner of the land and placed on the face of the map.
 9. A statement, shown in Attachment A-1, acknowledging the existence of flood plains on the property, and dedicating a floodway easement.
 10. The certificate, shown in Attachment A, of the registered public surveyor who surveyed, mapped, and monumented the land, which certificate shall be sworn to before a notary public, and shall be placed on the face of the map.

- c. Construction Plan Procedure and Requirements -
1. General Application Requirement - Construction plans shall be prepared by or under the supervision of a professional engineer registered in the State of Texas. Plans submitted for review by the City shall be dated and bear the responsible engineer's name, serial number and designation of "engineer", "professional engineer", or "P.E." and an appropriate stamp or statement near the engineer's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the city shall bear the seal and signature of the engineer and the date signed on all sheets of the plans. Public works construction in streets, alleys or easements, which will be maintained by the city, shall be designed by a professional engineer registered in the State of Texas.
 2. Construction Plan Review Procedure - Copies of the construction plans and the required number of copies of the plat shall be submitted to the City engineer, or designee, for final approval. The plans shall contain all necessary information for construction of the project, including screening walls and other special features. All materials specified shall conform to the Design Guidelines for Subdivision Improvements. Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The City engineer, or designee, will release the plans for construction after approval of the final plat by the Commission and payment of all inspection fees. Upon such release, each Contractor shall maintain one set of plans, stamped with City release, on the project at all times during construction.
 3. Failure to Commence Construction - If construction has not commenced within one (1) year after approval of the plans, resubmittal of plans may be required by the City engineer, or designee, for meeting current Design Guidelines for Subdivision Improvements. "Construction" shall mean installation of City maintained public improvements.
- d. Standards for Approval - No final plat shall be approved by the Director or the Commission or City Council unless the following standards have been met:
1. Plat substantially conforms to the preliminary plat.
 2. Plat conforms to applicable zoning and other regulations.
 3. Provision has been made for adequate public facilities under the terms of this ordinance.
 4. Plat meets all other requirements of this ordinance.
 5. Plat conforms generally to the Comprehensive Plan.
- e. Approval Procedure - After review of the final plat, the Director shall place the final plat for consideration on the agenda of a public meeting of the Commission. Minor plats may be approved by the Director or referred to the Commission. In the event of disapproval, reasons for disapproval shall be stated. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the final plat and, if the final plat is disapproved, the reasons for disapproval accompanying the final plat.

- f. Appeals – If the Commission disapproves the final plat, the applicant may appeal to the City Council.
- g. Letter of Compliance - Upon final approval of a final plat required by these regulations, the Director shall issue to the applicant a Letter of Compliance stating that the final plat has been approved by the Commission and/or the City Council. For purposes of this section, final approval shall not occur until all conditions of approval have been met.
- h. Signing and Recording of Final Plat - **It shall be the responsibility of the Director to file the final plat with the County Clerk. Simultaneously with the filing of the final plat, the City engineer, or designee, shall record such other agreements of dedication and legal documents as shall be required to be recorded by the City Attorney. The final plat, bearing all required signatures, shall be recorded after final approval and within sixty (60) working days of receipt of the signed originals. One (1) copy of the recorded final plat, with street addresses assigned, will be forwarded to the property owner and others as designated by the Director.**
- i. Effect of Approval - Approval of a final plat shall certify compliance with City regulations pertaining to the subdivision of land. An approved and signed final plat may be filed with the County as a record of the subdivision of land and may be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.

SECTION VII

Replatting

Replatting of Land

1. Replat Required - Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already approved final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the platting of land by these regulations.
2. Replatting Without Vacating Preceding Plat - A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
 - (a) Is signed and acknowledged by only the owners of the property being replatted;
 - (b) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.
 - (c) Is approved by the Director or Commission or City Council, as applicable.
3. Any replat, which adds or deletes lots, must include the original lot boundaries.
4. Plats must conform to applicable State law with regard to public notification requirements in Texas Local Government Code Sections 212.014 and 212.015, or successor.

SECTION VIII

Amending Plats

The Director may, upon petition of the property owner or developer, approve and issue an amending plat which is signed by the applicants only, unless remove period otherwise required to the contrary, and which is for one or more of the purposes amending plats set forth in Texas Local Government Code Section 212.016, or successor, and such approval and issuance shall not require notice, hearing, or approval of other lot owners.

SECTION IX

Plat Vacation

- a. By Property Owner - The property owner of the tract covered by a plat may vacate, upon the approval of the Commission, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
- b. By All Lot Owners - If lots in the plat have been sold, the plat may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
- c. Criteria - The Commission shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare. As a condition of vacation of the plat, the Commission may direct the petitioners to prepare a revised final plat in accordance with these regulations.
- d. Effect of Action - On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Commission's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Commission.

SECTION X

Requirements for Public Improvements and Design

- a. General Requirements
1. Plats Straddling Municipal Boundaries - Whenever access to the subdivision or addition is required across land in another municipality, the City engineer, or designee, may request assurance from that municipality's Attorney that access is legally established, and from its Engineer that the access road is adequately improved, or that a bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal or county boundary lines.
 2. Character of the Land - Land that is unsuitable for subdivision or development due to flooding, utility easements, or other features which will reasonably be harmful to the safety, health, and welfare of the present or future inhabitants of the subdivision or addition and/or welfare of its surrounding areas, shall not be subdivided or platted unless adequate methods are formulated by the owner and accepted by the City engineer or designee.
 3. Adequate Public Facilities Policy - The land proposed for subdivision must be adequately served by essential facilities and services. Design of improvements shall conform to the Design Guidelines for Subdivision Improvements. These services include street access, water, wastewater disposal, and off-site drainage. No plat or replat may be approved unless it conforms to this policy and its standards. This policy may be further defined and supplemented by other City ordinances.
 - (a) Street Access - All platted lots must have safe and reliable street access for daily use and emergency purposes.
 - (1) All platted lots must have direct access to an improved public street, private street, or an approved public way, and connected by improved public streets to an improved public thoroughfare.
 - (2) Except for lots, which are provided access from an approved cul-de-sac, all subdivisions must have adequately designed access or approach as approved by the City engineer or designee. Where development phasing or constraints of the land prevent the provision of a second, separate means of access, the City may accept a temporary street connection, or a median divided street or entry to satisfy this requirement.
 - (b) Water - All platted lots must be connected to a State approved water system.
 - (1) Except for lots along an approved cul-de-sac, all lots within the City limits and as appropriate in the ETJ must be provided service connections from a looped water main providing water flow from two directions or sources.

- (2) Water service must be sufficient to meet the fire flow requirements of the proposed development, except where a suitable alternative means of fire protection is approved by the City Fire Chief.
 - (3) The City may accept development phasing, development restrictions, and/or the construction of improvements to maintain adequate fire protection.
- (c) Waste Water - All platted lots must be served by an approved means of wastewater collection and treatment.
- (1) On-site wastewater treatment systems will not be permitted, except for the pretreatment of industrial waste, unless approved by the City of Whitehouse Director of Public Utilities.
 - (2) The projected wastewater discharge of a proposed development shall not exceed the capacity of the waste water system.
 - (3) The City may accept the phasing of development and/or improvements to the systems so as to maintain adequate wastewater capacity.
 - (4) Where off-lot sewerage is not required or is not to be provided, on-site sanitary sewer facilities shall conform to Onsite Sanitary Sewage Facility standards. The minimum lot size as well as the septic tank system design and construction shall be in accordance with the Texas Commission on Environmental Quality (TCEQ) publication entitled "Construction Standards for Onsite Sanitary Sewer Systems" (November 30, 1977) or successor.
- (d) Drainage - Increased storm water runoff attributable to new development must not exceed the capacity of the downstream drainage system or adversely affect adjoining or downstream property. Where the projected runoff would exceed capacity, the City may accept the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements as means of mitigation.
4. Subdivision or Addition Name - The proposed name of the subdivision or addition shall not duplicate, or too closely approximate phonetically, the name of any other subdivision or addition in the area covered by these regulations and shall, where possible, correspond to named subdivisions or additions in the immediate vicinity. The Commission shall have final authority to approve the name of the subdivision or addition.
5. Corner and Reference Markers
- (a) All lot corners shall be located and marked with one half (1/2) inch reinforcing bar, eighteen (18) inches in length, and shall be placed flush with the ground or counter sunk, if necessary, in order to avoid being disturbed.

- (b) Iron rods, one half (1/2) inch in diameter and eighteen (18) inches long, shall be placed on all boundary corners, block corners, curve points, and angle points in public rights-of-way. Monuments shall be located as required by the City engineer, or designee, and shall be located along all drainage/floodway boundaries at all curve points, angle points and at least one monument at lot corners. One monument may serve two lots if located at a common corner.

b. Lot Design and Improvements

1. Lot Arrangement - The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Ordinance, Building Code and other applicable ordinances, laws and regulations. Driveway access shall be provided to buildings on the lots from an approved street, alley or public way.
2. Lot Dimensions - Lot dimensions shall comply with the minimum standards of the Zoning Ordinance. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking, landscaping, and loading facilities required for the type of use and development contemplated, as established in the Zoning Ordinance.
3. Double Frontage Residential Lots - Double frontage and reversed frontage lots shall be avoided except where necessary to separate residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.
4. Blocks -
 - (a) Blocks shall generally have sufficient width to provide for two (2) tiers of lots of appropriate depths.
 - (b) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated. In general, blocks shall be approximately one thousand (1,000) feet long, but the length may be varied according to circulation, topography, and provisions of the Master Street Plan.
5. Non-residential Plats -
 - (a) General - A non-residential plat shall be subject to all the requirements of these regulations, except those that clearly pertain only to residential properties, as well as such additional standards as may be required by the Commission, and shall conform to the proposed land use and standards established in the Comprehensive Plan and Zoning Ordinance. Site plan approval and plat approval may proceed simultaneously at the discretion of the Commission.
 - (b) Design Principles - In addition to these regulations, which are appropriate to all platting, the applicant shall demonstrate to the satisfaction of the Commission that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into

account other uses in the vicinity. The following principles shall be observed:

- (1) Proposed non-residential parcels shall be suitable in area and dimensions to the types of non-residential development anticipated.
 - (2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - (3) Residential areas shall be protected from potential nuisance from a proposed non-residential plat.
 - (4) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or future residential areas, except where required by the Master Street Plan.
- (c) Frontage and Access Standards - All non-residential lots established following (effective date of this ordinance) shall meet the following frontage and access criteria:
- (1) Frontage - All frontages shall conform to the requirements of the specific zoning district as set forth in City of Whitehouse Combined Zoning Ordinance.
 - (2) Access Standards - All non-residential lots shall have access to a public street.
 - (3) When adjacent to a median divided street, all lots shall have access to a median opening. Direct access should be provided where possible. If direct access is not available, a corner lot shall have indirect access through a shared access easement between it and adjacent properties. All off-corner lots shall have direct access, or indirect access; by platting a minimum of one half of the intersecting drive as a shared access easement.
6. Soil Preservation and Final Grading - Soil Preservation and Final Grading shall conform to the regulations set forth in City of Whitehouse Storm Water Pollution Prevention Plan (TBP)
7. Debris and Waste - No cut trees, timber, debris, large rocks or stones, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of final acceptance by the City engineer, or designee, and removal of those items and materials shall be required prior to such acceptance. No items and materials as herein described shall be left or deposited in any area of the subdivision or addition at the time of expiration of any improvement agreement or acceptance of dedication of public improvements, whichever is sooner. However, dirt or topsoil may be stockpiled on a property with approval of the City engineer or designee.
- c. Thoroughfare Screening

Where subdivisions or additions are platted so that the rear yards of residential lots are adjacent to a dedicated roadway or separated from a roadway by an alley or service road, the owner shall provide screening at owner's sole expense. The Commission may waive or modify, in exceptional cases, this requirement. A screening plan, including elevations and materials, shall be submitted with the preliminary plat. All forms of screening shall conform to the requirements of ordinances governing the sight distance for traffic safety and other City ordinances. Additional right-of-way or easements may be required for wider columns and more elaborate screening walls.

d. Streets and Thoroughfares

1. Adequacy of Streets and Thoroughfares - All streets and alleys shall be designed and platted in conformance with the Design Guidelines for Subdivision Improvements, and other valid development plans approved pursuant to these regulations. Access to all lots must be suitably improved or secured by provisions contained in these regulations.
2. Design Standards -
 - (a) General - In order to provide for streets of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, sanitation, and street-maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, an adequate street and thoroughfare system shall be designed in accordance with the standards set forth in these regulations, together with those contained in the Design Guidelines for Subdivision Improvements.
 - (b) Alleys - Alleys within Single Family Residential Districts shall be constructed a minimum of 15 feet in width within a minimum 20-foot right-of-way. Wider alleys, when required for drainage, screening walls, or other purposes, shall be constructed in rights-of-way approved by the City engineer or designee. Alleys for other than Single Family residential uses shall be dedicated and paved a minimum of 20 feet in width. The owner shall construct the full width of the alley at owner's own cost.
 - (c) Curb and Gutter -Curb and gutter shall be standard City design and construction and shall be required in all subdivisions
 - (d) Future Connections - Street extensions may be required to link subdivisions as the neighborhood develops. Temporary cul-de-sacs shall be installed by the developer when required by the City engineer or designee.
 - (e) Traffic Buttons - The developer shall be responsible for the installation of traffic buttons, which are necessary for the safe transition, or channelization of traffic. When required by the City engineer, or designee, the owner shall install traffic buttons for lane dividers. All traffic buttons shall be installed as required by the City engineer or designee.
 - (f) Reserve Strips - The creation of reserve strips shall not be permitted in such a manner as to deny access from adjacent property to any street, alley or officially approved place.

- (g) Topography and Arrangement -
 - (1) All streets shall be properly integrated with the existing and proposed system of streets and dedicated rights-of-way.
 - (2) Proposed streets shall be extended to the boundary lines of the tract to be platted, unless prevented by topography or other physical conditions, or unless in the opinion of the Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision or addition with the existing layout or the most advantageous future development of adjacent tracts.

- (h) Continuation of Streets and Cul-de-sacs –
 - (1) Continuation of Streets - The arrangement of streets shall provide for the continuation of streets between adjacent properties.
 - (2) If the adjacent property is undeveloped and the street must temporarily be a dead-end street the right-of-way shall be extended to the property line.
 - (3) Where existing alleys are used, alley turnouts shall be provided to new subdivisions.
 - (4) Cul-de-sacs - For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be prohibited. However, the Commission may require the reservation or dedication of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with Design Guidelines for Subdivision Improvements.
 - (5) Temporary Dead-End Streets - The City may require the construction of temporary dead-end streets in order to provide for the future connection of subdivisions and to ensure reasonable access and avoid excessive street length.

- (i) Street and Alley Length -
 - (1) In general, blocks shall be approximately one thousand (1,000) feet long, but the length may be varied according to circulation and topography.
 - (2) No cul-de-sac unless otherwise authorized by the Commission shall exceed 600 feet in length, which is to be measured from the centerline of the street with which it intersects to the center point of the cul-de-sac.
 - (3) Cul-de-sac lengths longer than those specified in this section shall require approval of a variance. In reviewing a variance, the Commission shall consider the following:

- (i) Alternative designs which would reduce street, cul-de-sacs, or alley length;
 - (ii) The effect of over length streets, cul-de-sacs, or alleys on access, congestion and delivery of municipal services; and
 - (iii) Means of mitigation, including but not limited to increased street width, mid-block turnarounds, limitation on the number of lots to be created and served, temporary points of access, and additional fire protection measures.
- (j) Street Names and Signs -
 - (1) Street names must be submitted to the Planning and Zoning Department for approval. Street names and subdivision names will be referred to the 9-1-1 Network of East Texas for verification. Streets that are to be in alignment with existing streets shall be given the same name. Names shall be sufficiently different in sound and spelling so as not to cause conflict or confusion. The Planning and Zoning Department will maintain an index of street names. Street names and subdivision names are fixed at the time of approval of the final plat.
 - (2) The developer shall provide payment for street name signs for the development. The price of each street name installation shall include cost of the sign assembly, pole, and installation. Payment by the developer will be due prior to approval of the engineering plans by the City engineer or designee.
 - (3) Street name signs shall be installed by the City upon acceptance of the development improvements by the City engineer or designee.
- (k) Street Lights - Installation of streetlights are subject to approval by the City engineer, or designee, and shall be in accordance with the Design Guidelines for Subdivision Improvements. The developer shall be responsible for the cost of such street lighting installation as required. The developer shall install conduit for streetlights and traffic signals in divided thoroughfares as directed by the City engineer or designee.
- (l) The pavement structure shall be designed in accordance with the Design Guidelines for Subdivision Improvements in the City of Whitehouse.
- (m) Environmental considerations:

Whereas it is an environmental hazard and can cause property damage to increase the turbidity of streams or increase the sedimentation onto private property, it shall be the responsibility of property owners, developers, builders, contractors and others disturbing the natural surface or ground cover, both collectively and separately, to institute such precautions as may be necessary to prohibit erosion, sediment transport, and/or siltation into any storm sewer conveyance system or

onto nearby properties. The property owner is required to submit an erosion control plan that must be approved by the City engineer, or designee, prior to the disturbing of the natural surface or ground cover. An erosion control plan should be included with the construction plans for paving, drainage, and utilities, and with the site plans submitted for approval for building permits in all zoning except single family and duplex. It is unlawful to pollute or obstruct the flow of water in such streams by introducing into said waterways construction debris, trees, brush, or other cleared materials, excavated material, trash or rubbish.

3. Street Dedications and Reservations

- (a) Dedication of Right-of-Way - The developer shall provide all right-of-way required for existing or future streets. In the case of perimeter streets, half of the total required right-of-way for such streets shall be provided. However, in some instances more than half shall be required depending on the actual or proposed alignment of the street.
- (b) Perimeter Streets - Where an existing half-street is adjacent to a proposed subdivision or addition, the unimproved half of the street shall be dedicated and improved by the developer.
- (c) Slope Easements - The dedication of easements, in addition to dedicated rights-of-way shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three feet horizontal to one foot vertical.

4. Street Construction - The developer shall construct all streets or thoroughfares to City standards in rights-of-way, subject to participation policies. Streets (including sidewalks), which dead-end at power lines, railroad, or similar rights-of-way, and are intended for future extension shall be constructed in the full right-of-way for half the distance across such right-of-way for each side. Widths shown below are back-to-back of curbs and required on both sides of divided streets. Developers of property abutting only one side of a street are responsible for the minimum paving widths shown below. The minimum paving widths for the various types of streets shall be as follows:

CHART OF STREET WIDTHS			
NAME	ROW WIDTH	STREET WIDTH (back to back)	RESIDENTIAL LOT CAPACITY (NOTE 4)
CUL-DE-SAC	60'	32'	Cul-de-sacs
RESIDENTIAL	60'	32' (Note 1)	Less than 60
COLLECTOR (LOCAL)	60'	32'	60 - 125
COLLECTOR (MINOR OR COMMERCIAL)	60'	40'	More than 125
COLLECTOR (MAJOR)	70'	40' (Note 2)	
ARTERIAL (MINOR)	90'	64'	
ARTERIAL (MAJOR)	110'	88'	

Note 1: Street extensions or stub-outs into unplanned areas shall have a minimum pavement width of thirty-two (32') feet measured back of curb to back of curb.

Note 2: The width of a major collector shall be flared to fifty-two (52') feet at the intersection with an arterial or major collector. The width of the right-of-way shall be flared to eighty (80') feet.

Note 3: Commercial use shall be based on the following Zoning Districts: B-1 AND GI-1.

Note 4: The intent of this ordinance is to define *Residential Lot Capacity* as the total number of lots served by a specific street category, inclusive of all lesser category streets, divided by the number of City approved intersections with a higher category street. For example, the maximum Residential Lot Capacity for a Residential street would be determined by calculating the total number of lots fronting on that street, plus any lots fronting on cul-de-sacs with access only to the above mentioned Residential street, divided by the number of intersections with a Local Collector street.

5. Improvement, Widening, and Realignment of Existing and Proposed Streets - Where a subdivision or addition borders a substandard street and future

realignment, widening or constructing a street would require use of some of the land in the subdivision or addition, the applicant shall be required to improve and dedicate those areas for widening or realignment of those streets, as follows:

- (a) When a proposed subdivision or addition abuts or will abut both sides of a substandard street or a proposed street, the developer shall be required to improve the substandard street or proposed street so that it will be a standard street, including sidewalks. The minimum street paving width shall be shown in Chart of Street Widths set forth in this Section.
- (b) If the proposed subdivision or addition is located along only one side of a substandard street or a proposed street in the Master Street Plan, the developer shall be required to improve developer's side of the substandard street or proposed street, including sidewalks, so that it will be a standard street. The minimum street paving width shall be as shown in Chart of Street Widths set forth in this Section. The developer may, however, petition the City to construct the improvements herein required.
- (c) When an arterial street is to be extended through a property to intersect with another arterial street, all lanes shall be constructed for a minimum distance of 350 feet from the point of intersection. From that point the pavement width may be decreased by two lanes, with provision of an appropriate transition in paving width. If property abutting only one side of the proposed thoroughfare is to be developed, then half the roadway will be constructed, including left turn lane and transition. This provision will not require widening an existing intersection that already provides four through lanes.

SECTION XI

Private Streets and Alleys

Subdivisions may be developed with private streets and alleys instead of public streets and alleys if the development complies with the requirements of this section and the subdivision has received zoning approval for a private street development. The term private street shall be inclusive of alleys. Variances to these requirements shall not be permitted.

- a. Design and Construction Standards - Private streets shall conform to the same standards regulating the design and construction of public streets. These standards shall include, but are not limited to, the following:
 1. Minimum Pavement width of private streets shall be 32 feet measured from back of curb to back of curb.
 2. Design Guidelines for Subdivision Improvements; and
 3. Street Naming requirements in this Section.
- b. Streets Excluded - The Commission may deny the creation of any private street if, in the Commission's judgment, the private street would negatively affect traffic circulation on public streets or impair access to property either on-site or off-site to the subdivision, impair access to or from public facilities including schools and parks, or delay the response time of emergency vehicles.
- c. Property Owners Associations Required - Subdivisions developed with private streets and alleys must have a mandatory property owners association, which includes all property, served by private streets. The association shall own and be responsible for the maintenance of private streets and appurtenances.
- d. Private Street Lot - Private streets and alleys must be constructed within a separate lot owned by the property owners association. This lot must conform to the Design Guidelines for Subdivision Improvements. An easement shall be granted to the City providing unrestricted use of the property for utilities and the maintenance of same. This right shall extend to all utility providers, including telecable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function including, but not limited to, fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs emergency access.
- e. Construction and Maintenance Cost - The City shall not pay for any portion of the cost of constructing or maintaining a private street.
- f. City Utilities – Water facilities placed within the private street and alley shall be installed in conformance with city guidelines. Sewer and drainage facilities placed within the private street and alley shall be installed in conformance with the Design Guidelines for Subdivision Improvements. All such facilities shall be dedicated to the City prior to final approval.
- g. Plans and Inspections - Developments proposed with private streets must submit to the City the same plans and engineering information required to construct public streets and

utilities. Requirements pertaining to inspection and approval of improvements for private streets shall be the same as for public streets. Fees charged for these services shall also apply. City will inspect private streets during construction. City shall periodically inspect private streets and require repairs necessary to insure emergency access.

- h. Access Restrictions - The entrances to all private streets must be marked with a sign stating that it is a private street. Guard houses, access control gates and cross arms may be constructed. If the association fails to maintain reliable access as required to provide City services, the City may enter the subdivision and remove any gate or device, which is a barrier to access at the sole expense of the association.
- i. Petition to Convert to Public Streets - The Property Association may request the City accept private streets and alleys and the associated property as public streets and right-of-way. However, in no event shall the City be obligated to accept said streets and alleys as public. Should the City elect to accept the streets and alleys as public, the City may inspect the private streets and assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the streets and alleys. The City will be the sole judge of whether repairs are needed. The City may also require, at the association's expense, the removal of guardhouses, access control devices, landscaping or other aesthetic amenities located within the street lot.
- j. Street Sign Standards – Signs identifying Private Streets shall conform to the same minimum standards regulating the design and construction of signs identifying Public Streets as approved by the City engineer or designee. Private Street Signs located at the intersection of a Private Street with a Public Street are subject to approval by the City Engineer or designee. All private traffic signs shall conform to the Texas Manual of Uniform Traffic Control Devices.

SECTION XII

Sidewalks

All developments shall provide sidewalks for the purpose of providing pedestrian circulation within the subdivisions and access to neighborhood or community facilities, and to current or future transportation facilities.

a. General Requirements

1. Sidewalks shall be constructed according to the Design Guidelines for Subdivision Improvements.
2. All developments shall provide sidewalks along both sides of all streets within the same subdivision and along the subdivision side of all perimeter streets adjacent to the subdivision.
3. In lieu of requiring sidewalks along both sides of all streets, the Commission may approve a master pedestrian traffic plan as part of the preliminary plat for the subdivision. Such plan shall provide adequate pedestrian access as approved by the Commission.
4. Sidewalks shall not be required for a replat of property for single-family residential use if the preceding plat covering the same property did not require sidewalks.
5. Sidewalks do not have to be installed where no curb and gutter exists.
6. Sidewalks are not required on cul-de-sacs less than 600 feet in length.
7. Properties that have had a preliminary plat approval prior to January 27, 2004 shall be exempted from the requirements in this Section.
8. Subdivisions in the ETJ shall comply with this Section.

b. Residential Subdivisions

1. Sidewalks shall be constructed by the developer at all intersections, block ends, bridges and areas adjacent to greenbelts and common areas, along all perimeter streets that require sidewalks.
2. Sidewalks shall be constructed by the builder along all frontage of the lot as determined by the building permit. Such sidewalks are not required on a lot until completion of the building construction. Authorization for occupancy shall not be granted until acceptance of the sidewalk by the City.

c. Non-Residential Subdivisions

1. Sidewalks shall be constructed along all streets prior to final acceptance of the subdivision by the City engineer or designee. Certification of Occupancy shall not be issued and final inspections shall not be approved until this requirement has been met.

2. When the delay of sidewalk construction is deemed appropriate by the City engineer, or designee, escrow funds in lieu of the construction of sidewalks may be approved by the City engineer or designee. Such funds shall be escrowed with the City prior to the filing of the final subdivision plat. If the tract has been platted and filed, then the funds must be escrowed prior to final inspection or approval of the Certificate of Occupancy. The escrow amount shall be determined by the square foot cost of constructing such sidewalk, as estimated by the City engineer or designee

CHART OF SIDEWALK REQUIREMENTS				
STREET NAME	SIDEWALK REQUIRED	REQUIRED WIDTH	STANDARD SIDEWALK LOCATION	ALTERNATE SIDEWALK LOCATION
CUL-DE-SAC	No	N.A.	N.A.	N.A.
RESIDENTIAL	Yes	4 Feet (Note 1)	Both Sides @ 5 1/2 Feet Back of Curb	Yes - Master Plan (Note 2)
COLLECTOR (LOCAL)	Yes	4 Feet (Note 1)	Both Sides @ 5 1/2 Feet Back of Curb	Yes - Master Plan (Note 2)
COLLECTOR (MINOR OR COMMERCIAL)	Yes	4 Feet (Note 1)	Both Sides @ 5 1/2 Feet Back of Curb	Yes - Master Plan (Note 2)
COLLECTOR (MAJOR)	Yes	4 Feet (Note 1)	Both Sides @ 9 1/2 Feet Back of Curb	(Note 3)
ARTERIAL (MINOR)	Yes	4 Feet	Both Sides @ 4 feet from ROW	(Note 3)
ARTERIAL (MAJOR)	Yes	4 Feet	Both Sides @ 19 1/2 Feet back of curb	(Note 3)

- Note 1: If sidewalk is placed at the back of curb, the width shall be five (5') feet.
- Note 2: A Sidewalk Master Plan of the sidewalk network for the subdivision shall be submitted with the preliminary plat. The Sidewalk Master Plan shall show the location and widths of all new sidewalks and greenbelt trails being planned for the subdivision and the connection points with existing sidewalks and greenbelt trails. The alignment, location, and width of the sidewalk may be varied if approved on the Sidewalk Master Plan.
- Note 3: The City engineer, or designee, may approve variances to the location of the sidewalk.

SECTION XIII

Drainage and Water Utility Improvements

- a. Design of Facilities -
1. Design of Facilities – Drainage facility needs caused by the development or use of a piece of property must be identified and provided for in appropriate stages of development. The objectives of drainage planning and facilities is to protect the uses of the platted property and safety of citizens who use the platted property in the future and to prevent development and usage of the platted property from adversely affecting others. Design of storm sewer systems, materials and construction shall be in accordance with the Design Guidelines for Subdivision Improvements. When a project is determined to be in the jurisdictional control of the U. S. Corp of Engineers, in regard to the Federal Clean Water Act or successor, the City requirements for drainage improvements will be subordinate to the requirements of a Section 404 Permit of the Federal Clean Water Act, or successor. During the platting process, the flood hazard areas shall be identified and drainage easements dedicated to the public on the final plat. Plans shall be submitted with the plat. The owners and developers of property have the duty to:
 - (a) Accommodate Upstream and Adjacent Drainage Areas - A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from ultimate development conditions from its entire upstream drainage area, whether inside, outside, along or adjacent to the subdivision or addition. The owner's engineer shall initially determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance, subject to approval by the City engineer or designee.
 - (b) Effect on Downstream Drainage Areas - The owner's engineer shall study the affect of each addition's storm runoff on the existing drainage facilities at a reasonable distance downstream of the addition as determined by the City engineer or designee. Where it is determined that existing capacity is not available immediately downstream, the owner's engineer shall design a drainage system, detention facility, or parallel system to mitigate the deficiency. The Commission shall deny the plat until the construction plans for such mitigation has been approved by the City engineer or designee. If oversize improvements are required, then the City may participate in the cost as prescribed by this Ordinance.
 - (c) Requirements for Developments in Drainage Areas Less Than One-Half (1/2) Square Mile - Drainage areas having a contributing watershed less than one-half (1/2) square mile shall be provided for in accordance with the Design Guidelines for Subdivision Improvements. Water conveyances shall consist of pipe culverts, box culverts placed underground, or improved open channels. An improved open channel is one in which the channel bottom sides are lined with reinforced portland cement concrete or other structurally sound material approved by the City engineer, or designee, to the depth that will convey the 100-year frequency flood.

(d) Requirements for Developments in Drainage Areas Greater Than One-Half (1/2) Square Mile and Less Than One (1) Square Mile - Drainage areas having a contributing watershed greater than one-half (1/2) square mile and less than one (1) square mile shall be provided for by one of the following methods:

- (1) Drainage improvements may be provided for in accordance with the Design Guidelines for Subdivision Improvements. Water conveyances shall consist of pipe culverts, box culverts placed underground, or improved open channels. An improved open channel is one in which the channel bottom sides are lined with reinforced portland cement concrete or other structurally sound material approved by the City engineer, or designee, to the depth that will convey the 100-year frequency flood.
- (2) When the floodplain is part of an overall Master Plan of the development or the City's Comprehensive Plan, the City engineer, or designee, may allow the floodplain to be left in a natural state or greenbelt. The greenbelt shall be required to be dedicated to the City in accordance with the Comprehensive Plan or a Home Owners Association for maintenance. The minimum dedication shall be 100 feet on each side of the defined floodplain limits. If the dedication is to the City, maintenance by the City shall consist of removal of dead or fallen trees blocking the drainage. In general, the greenbelt area shall be left in a natural state.

(e) Requirements for Developments in Drainage Areas Greater Than One (1) Square Mile - Drainage areas having a contributing watershed greater than one (1) square mile shall be provided for by one of the following methods:

- (1) The stream may be left in its natural state with minor improvements and no development within its floodplain. Minor improvements include the removal of dead trees, discarded debris and obstructions that would hinder the conveyance of water. In zones other than residential zones, the entire floodplain shall be platted and dedicated to the City as a floodway easement. The City will maintain the easement in the same condition as provided when the easement is within the City limits. In residential zones the entire floodplain shall be platted as a separate lot and dedicated to the City or Home Owners Association for maintenance. The City will maintain the easement in the same condition as provided when the easement is within the City limits. The Commission may waive this dedication requirement only for the following exceptions:
 - (i) Replats that were originally platted prior to the dedication requirements.
 - (ii) Subdivisions of five (5) lots or less.
- (2) The floodplain fringe may be reclaimed for use as long as the floodway is protected and the 100-year flood elevation is not

raised more than one (1) foot. This method of development may require erosion control to offset changes in the stream regimen caused by development of the property and drainage improvements. In zones other than residential the entire floodway shall be platted and dedicated to the City as a floodway easement. The City will maintain the easement in the same condition as provided when the easement is within the City limits. In residential zones the entire floodway shall be platted as a separate lot and dedicated to the City or Home Owners Association for maintenance. The City will maintain the easement in the same condition as provided when the easement is within the City limits. The Commission may waive this dedication requirement only for the following exceptions:

- (i) Replats that were originally platted prior to the dedication requirements.
 - (ii) Subdivisions of five (5) lots or less
- (3) The stream may be reconstructed or relocated to accommodate development. The new channel shall be sufficient to convey the 100-year flood. The design will include erosion control such as seeding, sodding, channel lining, or a combination of these. In zones other than residential ones, the entire floodway with proper access easements shall be platted and dedicated to the City as a floodway easement. The City will maintain the easement in the same condition as provided when the easement is within the City limits. In residential zones the entire floodway and proper access easement shall be platted as a separate lot and dedicated to the City or Home Owners Association for maintenance. The City will maintain the easement in the same condition as provided when the easement is within the City limits. The Commission may waive this dedication requirement only for the following exceptions:
- (i) Replats that were originally platted prior to the dedication requirements.
 - (ii) Subdivisions of five (5) lots or less
- (f) Detention Facilities - Lakes, detention ponds, and retention ponds may be constructed in all areas provided the City engineer, or designee, approves them. The City may assume maintenance responsibilities for this type of facility only if title to the facility passes to the City, if approved by the Council; however, easements shall be provided to ensure protection of these areas for maintenance purposes.
- (g) Alternate Facilities - Other innovative drainage concepts will be considered if approved by the City engineer or designee. Any City costs are subject to approval by the City Council.

2. Dedication of Drainage Easements -

- (a) Access to Floodway Easements - The Developer must provide sufficient access on each side of and parallel to creeks or drainage ways

for maintenance purposes. The access shall be above the base flood elevation and accessible to vehicles and equipment. Access must also be provided at maximum 1200 foot spacing along streets or alleys. The location and size of the floodway easement shall be determined by the City engineer or designee. The width of the access easement shall be 20 feet. Permanent monuments, the type and locations of which to be determined by the City engineer, or designee, shall be placed along the boundaries of the maintenance and access easement and private property. This access easement shall be included in the dedication requirements of this section and included in the drainage and floodway easement width.

- (b) Drainage Easements - Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual, unobstructed easements shall be provided. The minimum width of the easements shall be fifteen (15) feet in residential a zoning. Depending on depth and size of drainage facility, the City engineer, or designee, may require wider easements. Easements shall be indicated on the plat. Drainage easements shall extend from the street to a natural watercourse or to other drainage facilities. When a proposed drainage system will carry water across private land outside the subdivision or addition, appropriate drainage easements must be secured.

b. Sewage Facilities

- 1. Adequate Sewage Facilities - Sanitary sewer facilities serving the subdivision or addition shall connect with the City's sanitary sewer system. Sewers shall be installed to serve each lot and to grades and sizes according to specifications herein identified or referenced.
- 2. Design and Construction Requirements - Design of sanitary sewers shall be in accordance with the City's Design Guidelines for Subdivision Improvements and 30 T.A.C. 317, or successor. Materials and construction shall conform to the Standard Specifications and Standard Construction Details of the City of Whitehouse. The sanitary sewer system shall conform to the City's sewer studies for the various drainage basins.
- 3. Sewage Locations - Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be provided to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-way when possible.
- 4. Plan Approval. The City engineer, or designee, shall be responsible for receiving and approving construction plans for sewage facilities.

c. Water Facilities

- 1. Adequate Water Facilities - Water systems serving the subdivision or addition shall connect with the City's water supply and distribution system. Water facilities shall be installed to serve adequately each lot and to grades and sized according to specifications herein contained or referenced.
- 2. Design and Construction Requirements - Design of water systems shall be in accordance with the Design Guidelines for Subdivision Improvements and 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems",

or successor. Materials and construction shall conform to the Standard Specifications and Standard Construction Details of the City of Whitehouse.

3. Fire Hydrants - Fire hydrants and valves shall be required for all subdivisions and additions and shall be located to satisfy the requirements of the Fire Department. Fire hydrants shall be located in accordance with the Design Guidelines for Subdivision Improvements and 30 T.A.C. 290, Subchapter D, "Rules and Regulations for Public Water Systems", or successor and shall be approved by the applicable fire protection unit. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on the subdivision plat. Reflective fire hydrant buttons shall be installed in all streets at a point adjacent to fire hydrants. The buttons shall conform to Water Utilities and Fire Department specifications. At corner locations, buttons shall be installed in both streets.

d. Public and Private Utilities

1. Easements -

- (a) The property owner shall be required to furnish all easements and rights-of-way required to serve the development. Where reasonable, utilities should be located within streets or alley rights-of-way. Notwithstanding the above, developers may offer easements outside of street and alley rights-of-way. All utility facilities existing and proposed throughout the property shall be shown on the preliminary plat.
- (b) Easements shall be provided for both municipal and private utilities and must be recorded on the final plat or replat. Municipal easements for water and sanitary sewer shall be a minimum of ten feet in width. Storm sewer easements shall be a minimum of fifteen feet in width. All municipal easements may be wider as determined by the City engineer, or designee, depending on the depth and the size of the utility. The utility company must size private utility easements. Proper coordination shall be established between the property owner and the applicable utility companies for the establishment of utility easements on adjoining properties.
- (c) Water, sewer or drainage easements shall not straddle lots unless approved by the City engineer or designee.
- (d) All water and sewer easements shall be submitted in an acceptable form to the City engineer or designee.

2. Damage - The contractor and owner shall be responsible for all damage to existing public improvements caused during construction of new public improvements.

3. Underground Utilities – In new residential subdivisions, all utilities, including electrical distribution and communication, shall be installed underground along streets and alleys, unless otherwise approved by the City engineer or designee. Electrical utility service to non-residential properties from overhead distribution lines shall be placed underground from the right-of-way to the point of service, unless otherwise approved by the City engineer or designee. Developers are encouraged to install all utilities underground on each property in new subdivisions.

e. The Following Design Standards and Specifications Are Incorporated by Reference Into This Ordinance.

- ❖ Design Guidelines for Subdivision Improvements
- ❖ Standard Construction Details
- ❖ Texas Department of Transportation
- ❖ “Standard Specifications for Construction of Highways, Streets and Bridges, or successor”
- ❖ Storm Drainage Design Standards
- ❖ 30 T.A.C. 285 “On Site Sewage Facilities” or successor
- ❖ 30 T.A.C. 290, Subchapter D, “Rules and Regulations for Public Water Systems, or successor
- ❖ 30 T.A.C. 317 “Design Criteria for Sewer Systems”, or successor
- ❖ City of Whitehouse Combined Zoning Ordinance
- ❖ City of Whitehouse Storm Water Pollution Prevention Plan

SECTION XIV

Construction & Inspection Procedures

- a. A permit is required from the city engineer, or designee, prior to beginning any work in the City regulated by 30 T.A.C. 317 "Design Criteria for Sewer Systems", or successor.
- b. Preconstruction Conference - The City engineer, or designee, may require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a grading permit and before any filling or removal of vegetation and trees.
- c. Conditions Prior to Authorization - Prior to authorizing release of a grading permit, the City engineer, or designee, shall be satisfied that the following conditions have been met:
 1. The preliminary plat has been approved by the Commission.
 2. All required documents have been completed and filed with the City engineer or designee.
 3. All necessary off-site easements or dedications required for City maintained facilities and not shown on the final plat must be conveyed solely to the City with proper signatures affixed. The original of the documents and filing fees shall be returned to the Office of Community Development and/or Water Utilities Department prior to approval and release of the engineering plans.
 4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City engineer, or designee, and/or Water Utilities Department. These plans shall remain on the job site at all times.
 5. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City engineer, or designee, and Office of Community Development.
 6. All other applicable fees must be paid to City.
 7. **Quality control testing: It will be the responsibility of the paving contractor to pay to the City of Whitehouse an amount of money equal to one (1) percent of the cost of construction of a public street or streets prior to the beginning of construction. The cost of construction shall include, but not be limited to, the cost of the following items: clearing, excavation, embankment, sub grade preparation, base, surfacing, curb and gutter, valley gutters, retaining walls, water and sanitary sewer improvements, under-drains and storm sewer facilities.**
- d. Inspection Procedure - Construction observation shall be supervised by the City engineer or designee. Construction shall be in accordance with the approved Construction Plans, Standard Specifications and Standard Details. Any change in design required during construction should be made by the engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions are subject to approval of the City engineer or designee. If the

City engineer, or designee, finds upon inspection that any of the required public improvements have not been constructed in accordance with the City's construction standards and specifications, the property owner shall be responsible for completing and/or correcting the public improvements.

- e. Certificate of Satisfactory Completion – The City will not accept dedication of required public improvements until the developer has provided “record drawings” of the improvements in accordance with the Design Guidelines for Subdivision Improvements.

Acceptance of the development shall mean that the developer has transferred all rights to the public improvements to the City for use and maintenance. Upon acceptance of the required public improvements, the City engineer, or designee, shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

SECTION XV

Improvements and Subdivision Improvement Agreement

- a. Completion of Improvements - Except as provided below, before the issuance of any building permit all applicants shall be required to complete, in accordance with the City's decision and to the satisfaction of the City engineer, or designee, all the street, sanitary, and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in these regulations, specified in the final plat, and as approved by the Commission, and to dedicate those public improvements to the City. As used in this Section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.
- b. Improvement Agreement and Guarantee -
 1. Agreement - The City engineer, or designee, may waive the requirement that the applicant complete and dedicate all public improvements and may permit the developer to enter into an improvement agreement by which developer covenants to complete all required public improvements no later than two (2) years following the date on which the final plat is signed. The Commission may also require the developer to complete and dedicate some required public improvements prior to final acceptance and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the developer and the City.
 2. Improvement Agreement Required for Oversize Reimbursement - The City shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the City for oversize costs for water and sewer improvements and any other oversize improvements. The City Council may authorize the approval of such agreement as meeting the City requirements, and the City shall not withhold approval as a means of avoiding compensation due under the terms of this ordinance.
 3. Security - Whenever the City permits a developer to enter into an improvement agreement, it shall require the developer to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a letter of credit or other security acceptable to the City Attorney, as security for the promises contained in the improvement agreement. In addition to all other security, for completion of those public improvements where the City participates in the cost, the developer shall provide a performance bond from the contractor, with the City as a co-obligee. Security shall be in an amount equal to one hundred percent (100%) of the estimated cost of completion of the required public improvements and lot improvements or equal to one hundred percent (100%) maintenance bond as determined by the city engineer, or designee, and with the approval of the city attorney. The issuer of any surety bond and letter of credit shall be subject to approval of the City Attorney.
 4. Letter of Credit - If the Commission authorizes the developer to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

- (a) Be irrevocable.
 - (b) Be for a term sufficient to cover the completion, maintenance and warranty periods but in no event less than two (2) years.
 - (c) Require only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.
5. As portions of the public improvements are completed in accordance with the Standard Specifications and the engineering plans, the developer may make application to the City engineer, or designee, or designee to reduce the amount of the original letter of credit. If the City Engineer, or designee, is satisfied that such portion of the improvements has been completed in accordance with City standards, City Engineer may (but is not required to) cause the amount of the letter of credit to be reduced by such amount deemed appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.
6. Upon the dedication of and acceptance by the City of all required public improvements, the City shall authorize a reduction in the security to 10% of the original amount of the security if the developer is not in breach of the improvement agreement. The remaining security shall be security for the developer's covenant to maintain the required public improvements and the warrant that the improvements are free from defect for one year thereafter. If the required security for maintenance and warranty is provided by the contractors or by others, the City will release the entire amount of the developer security.
- c. Temporary Improvements - The developer shall build and pay for all costs of temporary improvements required by the City engineer, or designee, and shall maintain those temporary improvements for the period specified by the Commission. Prior to construction of any temporary facility or improvement, the developer shall file with the City a separate improvement agreement and escrow or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained, and removed.
- d. Failure to Complete Improvements - For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed, no building permits shall be issued. In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may:
- 1. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
 - 2. Obtain funds under the security and complete the public improvements itself or through a third party;
 - 3. Assign its right to receive funds under the security to any third party, including a subsequent developer of the subdivision or addition for which public improvements were not constructed, in whole or in part, in exchange for that subsequent developer's promise to complete the public improvements on the tract;

4. Exercise any other rights available under the law.
- e. Maintenance and Guarantee of Public Improvements - The developer shall maintain all required street, utility, and drainage improvements for a period of one (1) year following the acceptance by the City and shall provide a warranty that all public improvements will be free from defect for a period of one (1) year following such acceptance by the City.

SECTION XVI

Participation and Escrow Policies

- a. Developer's Responsibility -
1. The developer shall be responsible for the entire costs of designing and installing all public improvements that primarily serve the subdivision or addition. Facilities required by these regulations shall be considered as primarily serving the subdivision or addition unless otherwise determined by the City.
 2. The developer shall also be responsible for its share of the costs of oversized or off-site public improvements needed to assure adequacy of public facilities and services for the addition or subdivision, subject to participation policies contained in this ordinance.
 3. The developer shall be responsible for extending streets or drainage facilities off-site to its property as required by the Commission and/or required to ensure adequacy of public facilities.
 4. Water and sewer facilities shall be extended by the developer in accordance with City standards.
- b. Facilities Eligible for City Participation - The City **may** participate in the costs of installing public improvements according to the following schedule:
1. Water and sewer utilities.
 2. Drainage. The developer shall bear the full cost of all drainage structures including inlets, culverts, storm sewers, manholes, and sub drains required to carry storm drainage or groundwater on or across the property of its origin. City **may**, at its option, participate in the cost of drainage improvements. Participation must be approved individually on the merits of the work and the availability of funds by City Council.
 3. Paving. The cost of clearing, excavation to a depth of one (1) foot, sub grade stabilization, installing curb and gutter, and paving shall be the sole responsibility of developer for standard width streets. If funds are available, City shall pay for clearing, paving, sub grade stabilization, excavation to a depth of one (1) foot, and drainage structures in excess of thirty-two (32) feet between the face of curbs in single family residential zoned property, and in excess of forty (40) feet between the face of curbs in property zoned other than single family residential, if such extra width is required by City, and upon approval by City Council prior to beginning any construction on said street(s). Where the proposed subdivision is adjacent to both sides of an existing substandard street or road, said street or road being substandard according to city specifications, the developer shall be required to improve the existing street or road to bring same to City standards, or to replace it with a standard City street or road, at no cost to City, other than as set out in the cost-sharing policy of the City in effect at the time of approval of the final plat. Where the proposed subdivision is adjacent to only one side of a substandard street or road, and/or where, in City's judgement, it is not feasible to reconstruct said substandard street or road at the time of development of said subdivision, City may permit developer to provide

to City an irrevocable letter of credit for an amount of money equal to developer's share of the cost of said improvements which shall be determined by City engineer, or designee, as a condition precedent to approval of said final plat of said subdivision, and then, to replace the letter of credit, pay into escrow this amount of money as a condition precedent to acceptance of the public street or road.

c. Escrow Policies and Procedures

1. Deposit with City - Whenever the City agrees to accept escrow deposits in lieu of construction by the developer of the property under these regulations; the developer shall deposit an amount equal to his share of the costs of design and construction in escrow with the City. Such amount shall be paid prior to release of construction plans by the City engineer or designee. In lieu of such payment at such time, the City may permit the developer to contract with the City and shall agree in such contract that no building permit shall be issued for any lot included within said plat, or increment thereof, until the full amount of the escrow is paid, or a pro rata part thereof for the full increment if developed incrementally. The obligations and responsibilities of the developer shall become those of developer's transferees, successors and assigns; and the liability, therefore, shall be joint and several.
2. Determination of Escrow Amount - The amount of the escrow shall be determined by using the average of the comparable bids awarded by the City in the preceding six (6) months or, if none exist, then in the preceding year or, if none exists, current market value of construction as determined by an estimate by the City engineer or designee. Such determination shall be made as of the time the escrow is due here under.
3. Termination of Escrow - Escrows which have been placed with the City under this section which have been held for a period of ten (10) years from the date of such payment or agreement, in the event that the City has not authorized the preparation of plans and specifications for construction of such roadway facilities for which the escrow was made, shall upon written request be returned to the developer, with accrued interest. Such return does not remove any obligations of the developer for construction of the required facilities if a building permit has not been issued on the subject lot or if a new building permit is applied for.
4. Refund - If any street or highway for which escrow is deposited for is constructed, or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the developer after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another governmental authority, the difference between the developer's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
5. Interest Limitation - If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at 1% less than the rate of actual earnings.

- d. Payment of Fees, Charges, and Assessments - As a condition of plat approval, the developer shall pay all fees, charges and assessments required to assure adequacy of public facilities to the subdivision or addition, as may be imposed under these or other regulations of the City.

SECTION XVII

Extraterritorial Jurisdiction Development Standards

- a. Zones. The City and the extraterritorial jurisdiction thereof are indicated on a map labeled City Limits and Extraterritorial Jurisdiction, which is made a part of this ordinance. It is available for review in the City of Whitehouse Office of Community Development
- b. Standards for improvements: Development in the Extraterritorial Jurisdiction of the City of Whitehouse must meet the same requirements for construction as if the development were within the boundaries of the city. **Connection to city utilities is not required. Streets, storm sewers and drainage must meet guideline of the city.**

SECTION XVIII

Variances and Appeals

- a. The Commission may authorize a variance from regulations in this Ordinance.
- b. A variance will not be granted unless undue hardship will result from requiring strict compliance. In granting a variance, the Commission shall prescribe only conditions deemed necessary or desirable to the public health, safety, and welfare. A variance shall not be granted unless there exists a special circumstance or unique condition affecting the land involved so that strict application of the provisions of this ordinance would deprive the landowner of a substantial property right or a reasonable use of the land, and the variance would not be detrimental to the public health, safety, and welfare, nor would be injurious to other property in the area.
- c. Financial hardship alone is not sufficient to show "undue hardship." Therefore, a variance shall not be granted solely because nonconformance is more profitable to the developer.
- d. All matters pertaining to the interpretation or enforcement of this ordinance, including the definition of a word as it relates to this ordinance, shall be referred to the Director for decision. The decision of the Director may be appealed to the Commission upon written notice by any party.
- e. Commission decisions, including granting of variances, may be appealed to the City Council upon written notice by any party.
- f. Written notice of appeal shall be filed with the office of the Director not later than twenty-one (21) calendar days from the date of subject decision so that the item may be placed on the agenda for the next available Commission or City Council meeting as the case may be and the affected parties notified of the appeal.
- g. There shall be no major differences in the interpretation of the subdivision ordinance for development within the City limits and development in the extraterritorial jurisdiction.

SECTION XIX

Gated Development Regulations

- a. Purpose. To set forth a standard set of regulations which will facilitate sound long range planning and ensure that no threat to the health, safety, and welfare of residents within gated developments will occur as a result of the utilization of restricted access features installed for added privacy.
- b. This section shall not apply to individual property owners who install restricted access devices for individual lots.
- c. Required Zones for Gated Developments: Gated Developments are restricted to the following zoning districts with an approved Specific Use Permit (SUP):

Multifamily – Planned Development
Residential Single Family (R-1, R-1.5, R-2) – Planned Development
- d. System Requirements.
 1. Each entrance to a gated development shall have a Knox Key Operated Dual Switch (KS-2DPDC), which shall meet the following requirements:
 - (a) Must have a switch designated for FIRE and POLICE.
 - (b) Each switch shall allow for emergency override of any electrical devices.
 - (c) Red in color.
 - (d) Each box shall be at least 5 inches high, 5 inches wide, and 1-1/2 inches deep.
 - (e) Switches shall be located to be easily accessible and visible to service providers. Locations of switches are subject to approval at the time of building permit by all affected City departments.
 2. A 24-hour number, which can be called by any other utility or service provider to gain access into the development, shall be displayed and clearly visible.
 3. Provisions for mail carrier access shall be as required by the U.S. Postal Service.
- e. Installation and Operation Requirements.
 1. Building permits shall be required for installation of restricted access devices.
 2. The switches shall have a normal and an emergency position. When installed, the contractor shall wire this switch so that all gates open and remain open for emergency access until the switch is returned to the normal position.
 3. A minimum of one set of gates shall be installed so that they either open automatically or are readily manually operable from the approach side in the event of power failure.
 4. The operator of any development subject to these regulations shall immediately notify the Fire and Police Departments of any changes.
- f. Maintenance.

1. The mechanical components of the restricted access device shall be serviced on a regular basis and maintained in an approved operating condition.
 2. The electrical components of the restricted access device shall be maintained in an approved operating condition.
 3. A power supply shall be maintained to electronic components of the restricted access device at all times.
- g. Performance test required.
1. A performance test shall be conducted annually by the Fire and Police Departments to verify proper operation of equipment.
 2. Upon failure of the performance test, the gates shall be disabled and maintained in the open position until repaired and re-tested.
- h. Compliance. All existing gated and restricted access developments subject to these requirements shall be in full compliance with this section by February **24, 2004**.

PASSED, APPROVED, AND ADOPTED this 24th day of February 2004.

Mike Gray – Mayor

ATTEST:

Stefani Hughes – City Secretary

ATTACHMENT "A"

ENGINEER'S OR SURVEYOR'S STATEMENT

I, _____, Registered _____ (Public Land Surveyor or Professional Engineer) No. _____, do hereby certify that the above plat was prepared from an actual survey made _____ (by me) or _____ (under my direction and supervision) on the ground during _____ (Month & Year).

GIVEN UNDER MY HAND AND SEAL this the _____ day of _____, 2_____.

(Signature)

(Seal)

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2_____.

Notary Public, State of Texas)

(Seal)

OWNER'S STATEMENT

I (WE) _____ (owners name and title if applicable) AM (ARE) OWNER (S) of the tract of land shown hereon and do accept this as its Plan for the subdividing into lots and blocks and do dedicate to the public forever the streets, alleys, and easements as shown.

(Signature)

(Signature)

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2_____.

Notary Public, State of Texas)

(Seal)

ATTACHMENT "A-1"

FLOODWAY EASEMENT

STATE OF TEXAS

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF SMITH

THAT whereas we _____, are the owners of the above described property and we are familiar with the terrain, elevation, high water level and all physical conditions, in, on and adjacent to said property; and

WHEREAS, said property is subject to flooding, high water and inundation due to the terrain, elevation and the fact that a creek(s) traverses or runs adjacent to said property; and

WHEREAS, the property subject to flooding, high water and inundation is marked on the plat and with the "Floodway Easement" line as shown and outlined on the plat.

WHEREFORE, PREMISES CONSIDERED:

We hereby agree that no obstruction to the natural flow of water, including storm waters and overflow water from any creek(s) shall be permitted by filling or by construction of any type of dam, building, bridge, walkway or any other structure within the floodway easement unless designed in accordance with the Storm Drainage Criteria of the City of Whitehouse. In the event any property owner obstructs the natural flow of the water in any manner, the City of Whitehouse may summarily remove any of said obstructions upon notification by mail to the owner.

We do hereby declare and dedicate this "Floodway Easement" to be a "covenant running with the land" and that this shall constitute a notice to all parties concerned including our heirs, successors or assigns and any and all purchasers of property within said subdivision.

Minimum finish floor elevation _____ feet.

WITNESS OUR HANDS AT _____, TEXAS, this _____ day of _____, 2_____.

SUBSCRIBED AND SWORN BEFORE ME, a Notary Public, in and for the State of Texas, this the _____ day of _____, 2_____.

Notary Public, State of Texas

(Seal)