



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-3

Date: February 8, 2006

Subject: Request that the City Council consider an Ordinance amending Tyler City Code Chapter 10, "Planning and Zoning", Article III., "Development", Division A., "Subdivision Rules", by amending the Subdivision Ordinance to include an exemption to certain Public Improvement requirements including curb and gutter, street improvements and escrow requirements; clarifying regulations related to street name signs and street widths; and adding references to the Development Services Engineer; and amending Tyler City Code Chapter 10, "Planning and Zoning", Division B., "Master Street Plan", by clarifying the exemption to Master Street Plan right-of-way dedication requirements for Major and Minor Arterials.

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Item Reference: City of Tyler Subdivision Ordinance and Master Street Plan; Tyler City Code Chapter 10, Article III., Divisions A. and B.; Texas Local Government Code Chapter 212

The Subdivision Ordinance was recently amended to allow specific exemptions with regard to right-of-way dedication as required by the Master Street Plan. In order to provide a more unified development approach Staff is proposing an additional amendment that will be of the same nature. This amendment will allow any property being subdivided, which has an existing building on the lot, to be exempt from public improvements requirement. Public improvements are those including curb and gutter, sidewalks, street improvements and escrow requirements. Again, this amendment would only apply to property that is proposed to be platted and has an existing building on the lot being platted. Additionally, clarification to the definition of building was added to the Ordinance. Several questions had been raised as to what type of building would have to be on the property in order for the exemption to apply. Staff is proposing that an existing building be defined as: a building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile or residential purposes.

Other suggested changes are considered "clean-up" in nature. These changes include those associated with the shifting of responsibilities related to the creation of the Development Services Department.

1. Adding a definition for, and references to, the Development Services Engineer;
2. Section 10-40.d.2(j)(3). Clarifying that street name signs shall be installed by the City upon acceptance of the development street improvements;

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3. Section 10-40.d.4. Amending the Street Widths Chart to include references to Note 3 relating to Commercial Use.

4. Section 10-44.c.3. Removal of the reference to “final plat” in the provision on necessary off-site easements or dedicated easements required for City maintained facilities.

As amended by the City Council on 1/11/06, City Code Section 10-61.c.2 allows an exemption to the Master Street Plan right-of-way dedication requirements for Major and Minor Arterials when the property is replatted if there is an existing plat of record for the property to be replatted, and if any newly created lots have an existing “building”. The attached ordinance amends Section 10-61.c.2 to specific types of “buildings” to which the exemption will apply: A building designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile, or residential purposes. The exemption shall not apply to buildings used for the support, shelter, protection, or protection of animals (such as barns), nor to buildings used solely for storage purposes.

RECOMMENDATION:

The Planning and Zoning Commission will vote on this item at their regularly scheduled meeting on February 7, 2006 and therefore Staff will be reporting the outcome at the City Council meeting.



**Drafted/Recommended By:
Department Leader**

**Stephanie Rollings
Planning Director**



**Kirk Houser
Traffic Engineer**

**Edited/Submitted By:
City Manager**

ORDINANCE NO. 0-2006-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 10 “PLANNING AND ZONING”, ARTICLE III., “DEVELOPMENT”, DIVISION A., “SUBDIVISION RULES”, BY AMENDING THE SUBDIVISION ORDINANCE TO INCLUDE AN EXEMPTION TO CERTAIN PUBLIC IMPROVEMENT REQUIREMENTS INCLUDING CURB AND GUTTER, STREET IMPROVEMENTS AND ESCROW REQUIREMENTS; AND AMENDING TYLER CITY CODE CHAPTER 10, “PLANNING AND ZONING”, ARTICLE III., “DEVELOPMENT”, DIVISION B., “MASTER STREET PLAN”, BY CLARIFYING THE EXEMPTION TO MASTER STREET PLAN RIGHT-OF-WAY DEDICATION REQUIREMENTS FOR MAJOR AND MINOR ARTERIALS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Texas Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

WHEREAS, Texas Local Government Code Section 212.002 states that after a public hearing on the matter, the governing body of a municipality may adopt rules governing plats and subdivisions of land within the municipality’s jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and

WHEREAS, Texas Local Government Code Section 212.003(a) provides that the governing body of a municipality by ordinance may extend to the extraterritorial jurisdiction of the municipality the application of the municipal ordinance prescribing rules governing plats and subdivisions of land; and

WHEREAS, under Texas Local Government Code Section 212.010, the municipal authority responsible for approving plats shall approve a plat if it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities; the general plan for the extension of the municipality and its roads, streets and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities; and any rules adopted under Section 212.002; and

WHEREAS, as authorized by State law, the Tyler City Council has adopted specific plat and subdivision regulations in a Subdivision Ordinance in Tyler City Code Chapter 10, Article III.; and

WHEREAS, it is important to clarify the right-of-way dedication requirements in the Master Street Plan; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER:

PART 1: That Tyler City Code Chapter 10, “Planning and Zoning”, Article III., “Development”, Division A., “Subdivision Rules”, is hereby amended by amending the definition of City Engineer in Section 10-31 as follows, and adding a definition of Development Services Engineer in the appropriate alphabetical order, with no other changes to Section 10-31:

City Engineer – The official with responsibility to review and release plans for capital construction projects other than water and sewer improvements, or designee. (Ord. No. 0-2006-19; 2/8/06)

Development Services Engineer – The official with responsibility to review and release plans for private development construction projects other than water and sewer improvements, or designee. (Ord. No. 0-2006-19; 2/8/06)

PART 2: That Tyler City Code Chapter 10, “Planning and Zoning”, Article III., “Development”, Division A., “Subdivision Rules”, is hereby amended by amending Sections 10-34 through 10-36 as follows:

Section 10-34. Preliminary Plat.

a. Applicability - A preliminary plat is required for all major subdivisions prior to the construction of public improvements, [except as permitted under subsection e.] If a preliminary plat is omitted, a final plat shall be required in conformance to Section 10-35.

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 – 18 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 undeveloped 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 Development Services Engineer, 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 Development Services 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 pursuant to Section 10-48.

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 one (1) year, 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 under the terms of Section 10-33. 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 pursuant to Section 10-48.

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 resubdivision 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. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Section 10-35. 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 10-34.

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 to the preliminary plat where applicable. The application shall be accompanied by the following:

1. **18** Copies of the proposed final plat bearing all information specified in Section 10-34, except Sec. 10-34.b.1(o) 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 Development Services Engineer 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 in digital format 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.

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_____.

(Seal) (Signature)

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

(Seal) Notary Public, State of Texas)

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 Tyler. In the event any property owner obstructs the natural flow of the water in any manner, the City of Tyler 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)

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 Development Services Engineer 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 Development Services Engineer 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 Development Services Engineer 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 accordance with Section 10-34. 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 Council in the manner prescribed in Section 10-48.

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 Development Services Engineer 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. (Ord. No. 0-2000-11, 3-1-2000)

j. Exemption to public improvement requirements for certain plats. An exemption to the requirements for improvement, widening and realignment of existing and proposed streets set forth in Section 10-40.d. shall be allowed if the requirements of Section 10-40.d.5(d) are met. (Ord. No. 0-2006-19; 2/8/06)

Section 10-36. 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. An exemption to right-of-way dedication requirements in Section 10-40.d.3(a) for certain replats is allowed if the requirements of Section 10-61.c. are met.

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 successors. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-11, 1/11/06) (Ord. No. 0-2006-19; 2/8/06)

5. An exemption to the requirements for improvement, widening and realignment of existing and proposed streets set forth in Section 10-40.d.5 is allowed if the requirements of Section 10-40.d.5(e) are met. (Ord. No. 0-2006-19; 2/8/06)

PART 3: That Tyler City Code Chapter 10, "Planning and Zoning", Article III., "Development", Division A., "Subdivision Rules", is hereby amended by amending Sections 10-40 through 10-46 as follows:

Section 10-40. 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 Development Services Engineer 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 Development Services Engineer.

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, waste water 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 Development Services Engineer. 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 waste water collection and treatment.

(1) On-site waste water treatment systems will not be permitted, except for the pretreatment of industrial waste, unless approved by Tyler Water Utilities.

(2) The projected waste water 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 waste water 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 Natural Resource Conservation Commission publication entitled "Construction Standards for Onsite Sanitary Sewer Systems" (November 30, 1977) or successor, and as approved by the designated representative of Smith County.

(5) The developer of a subdivision in Zone 2 of the extraterritorial jurisdiction shall obtain from a Smith County-designated agent a letter indicating whether or not the subdivision complies with the requirements of Chapter 8 of the Smith County Ordinance regulating the installation of on-site sewage disposal systems per Texas Commission on Environmental Quality or successor's On-site Sewage Facility Enforcement Program. (Ord. No. 0-2003-50, 9/24/03)

(d) Drainage - Increased stormwater 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 Development Services Engineer 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 frontage shall conform to the requirements of the specific zoning district as set forth in Chapter 10, Article IV.

(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 Chapter 10 Article III, Division E.

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 and/or Development Services Engineer, 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 and/or Development Services Engineer.

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 Master Street Plan, 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. The Standard Specifications for Public Works Construction, and the Standard Construction Details are incorporated herein by reference. In the event of a conflict between these or other regulations and those contained in such documents, the more specific and/or restrictive provisions shall be applied. Paving and other improvements are subject to the participation policies stated in Sections 10-45 – 10-46.

(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 Development Services Engineer. 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 except residential subdivisions having all lots in excess of two (2) acres of land. Such exception shall only apply if said street is a local street, not extensions of, on either or both ends, collector streets or streets proposed as such in the Master Street Plan.

(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 Development Services Engineer .

(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 Traffic Engineer the owner shall install traffic buttons for lane dividers. All traffic buttons shall be installed as required by the Traffic Engineer.

(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 as established on the Master Street Plan.

(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, topography, and provisions of the Master Street Plan. Blocks shall have a minimum width of two hundred (200) feet.

(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 overlength 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 Development Services Engineer.

(3) Street name signs shall be installed by the City upon acceptance of the development street improvements by the City Engineer.

(k) Street Lights - Installation of street lights are subject to approval by the Traffic Engineer 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 street lights and traffic signals in divided thoroughfares as directed by the City Engineer.

(l) The pavement structure shall be designed in accordance with the Design Guidelines for Subdivision Improvements in Tyler.

(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 any erosion control plan which must be approved by the Development Services Engineer 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.

(n) For public or private street construction occurring within a subdivision in Zone 2 of the extraterritorial jurisdiction, the developer shall provide to City a construction bond or letter of credit in the amount of twenty dollars (\$20.00) per linear foot of roadway, which shall be in effect until street construction is completed. (Ord. No. 0-2003-50, 9/24/03)

(o) For public street construction occurring within a subdivision in Zone 2 of the extraterritorial jurisdiction, the developer shall provide to City a one-year maintenance bond or letter of credit in the amount of ten dollars (\$10.00) per linear foot of roadway; which shall be in effect after the acceptance of construction. (Ord. No. 0-2003-50, 9/24/03) (Ord. No. 0-2003-72, 12/10/03)

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, as shown in the Master Street Plan or other valid development plans approved by the Commission or City Council as applicable. 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 as required by the Master Street Plan and shall follow the approved cross section standards as per the Master Street Plan Report document, subject to participation policies stated in Sections 10-45 – 10-46. 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 as required by the Master Street Plan for half the distance across such right-of-way for each side. Widths shown below are face to face 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:

STREET WIDTHS				
TYPE	NAME	ROW	STREET WIDTH (face to face)	RESIDENTIAL LOT CAPACITY (Note 4)
	CUL-DE-SAC	55'	28'	Cul-de-sace
F	RESIDENTIAL	55'	28' (Note 1)	Less than 60
E	COLLECTOR RESIDENTIAL	60'	32'	60 or more
D (Note 3)	COMMERCIAL STREET	60'	40'	
C (Note 3)	COLLECTOR MAJOR	70'	40' (Note 2)	
B	ARTERIAL MINOR	105'	78'	
	ARTERIAL MINOR W/BIKE LANE	115'	88'	
A	ARTERIAL MAJOR	130'	101'	

Note 1: Street extensions or stub-outs into unplanned areas shall have a minimum pavement width of thirty-two (32') feet measured face of curb to face 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. The length of the flare shall be one hundred thirty feet (130') with a one hundred foot (100') taper.

Note 3: Commercial use shall be based on the following Zoning Districts: R-3, C-1, C-2, C-4, M-1, M-2 and M-3. If a street fronts along a commercially zoned district on one side of the street and on a residentially zoned district on the other, then both sides must plat the street as a C or D street, as applicable. If a street fronts along lots that are a mixture of both commercial and residential zoning, then both sides must plat the street as a C or D street, as applicable.

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 Type F 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 Type F Residential street, divided by the number of intersections with a Type E Local Collector street. (Ord. No. 0-2006-11, 1/11/06)

5. Improvement, Widening, and Realignment of Existing and Proposed Streets - Where a subdivision or addition borders a substandard street or when the Master Plan indicates plans for realignment, widening or constructing a street that 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 in the Master Street Plan, 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, subject, upon approval, to the City's escrow policies stated in 10-46.

(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.

(d) Exemption to public improvement requirements for certain plats. An exemption to the requirements for improvement, widening and realignment of existing and proposed streets set forth in subsections (a) through (c) above shall be allowed when the property is finally platted, if any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile or residential purposes.

(e) Exemption to public improvement requirements for certain replats. An exemption to the requirements for improvement, widening and realignment of existing and proposed streets set forth in subsections (a) through (c) above shall be allowed when the property is replatted, if all of the following requirements are met:

- (1) There is an existing plat of record for the property to be replatted; and
 - (2) Any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile or residential purposes.
- (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Section 10-41. 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 28 feet measured from face of curb to face of curb.
2. Design Guidelines for Subdivision Improvements; and
3. Street Naming requirements in Section 10-40.

b. Streets Excluded - Streets shown on the Master Street Plan of the Transportation Element of the Comprehensive Plan shall not be used, maintained or constructed as private streets. Also, the Commission may deny the creation of any other 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 Chapter 19. 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. All restricted access entrances must be in compliance with Section 10-49. 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 guard houses, 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 Traffic Engineer. Private Street Signs located at the intersection of a Private Street with a Public Street are subject to approval by the Traffic Engineer. All private traffic signs shall conform to the Texas Manual of Uniform Traffic Control Devices. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Section 10-42. 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 is required or 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 March 10, 2000 shall be exempted from the requirements in this Section.

8. Subdivisions in the ETJ shall comply with Section 10-47.

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. 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, escrow funds in lieu of the construction of sidewalks may be approved by the Development Services Engineer. 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 Development Services Engineer. (Ord. No. 0-2000-11, 3-1-2000)

SIDEWALK REQUIREMENTS					
STREET TYPE	STREET NAME	REQUIRED SIDEWALK	SIDEWALK WIDTH	LOCATION OF SIDEWALK	SIDEWALK ALTERNATIVE
	CUL-DE-SACS	NO			
F	RESIDENTIAL	Yes	4 feet (Note 1)	Both Sides @ 5 ½ Feet Back of Curb	Yes Master Plan (Note 2)
E	COLLECTOR RESIDENTIAL	Yes	4 Feet (Note 1)	Both Sides @ 5 ½ Feet Back of Curb	Yes Master Plan (Note 2)
D	COMMERCIAL STREET	Yes	4 Feet (Note 1)	Both Sides @ 5 ½ Feet Back of Curb	Yes Master Plan (Note 2)
C	COLLECTOR	Yes	4 Feet (Note 1)	Both Sides @ 9 ½ Feet Back of Curb	(Note 3)
B	ARTERIAL MINOR	Yes	4 Feet	Both Sides @ 4 feet from ROW	
A	ARTERIAL MAJOR	Yes	4 Feet	Both Sides at 19 ½ 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: Development Services Engineer may approve variances to this location of the sidewalk. (Ord. No. 0-2000-11, 3/1/2000) (Ord. No. 0-2006-11, 1/11/06) (Ord. No. 0-2006-19; 2/8/06)

Section 10-43. 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 Development Services Engineer.

(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 Development Services Engineer. 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 Development Services Engineer. 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 Development Services Engineer 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 Development Services Engineer 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 Development Services Engineer 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 R1a, R1b, R2, and PUR 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 R1a, R1b, R2, and PUR 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 which 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 accordance with Chapter 10, Article III., Division E. In zones other than R1a, R1b, R1c, R2, PUR, PMF, and RTH, 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 R1a, R1b, R2, and PUR 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 which 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 R1a, R1b, R2, and PUR zones, 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 R1a, R1b, R2, and PUR 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 which 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 they are approved by the Development Services Engineer. 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 Development Services Engineer. 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 a maximum 1200 foot spacing along streets or alleys. The location and size of the floodway easement shall be determined by the Development Services Engineer. The width of the access easement shall be 20 feet. Permanent monuments, the type and locations of which to be determined by the Development Services Engineer, 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 twelve (12) feet in R1b zoning and fifteen (15) feet in R1a zoning. Depending on depth and size of drainage facility, the Development Services Engineer 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, and shall conform to the City's Master Sewer Plan for sewage treatment and collection. 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 Tyler. 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 Development Services Engineer 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, and shall conform to the City's Master Water Plan for water supply, treatment and distribution. 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 Tyler. The water system shall be in accordance with the City's Master Water Plan.

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 Development Services Engineer depending on the depth and the size of the utility. Private utility easements must be sized by the utility company. 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 Development Services Engineer.

(d) All water and sewer easements shall be submitted in an acceptable form to the Development Services Engineer.

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 Development Services Engineer. 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 Development Services Engineer. 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

Master Water Plan

Master Sewer Plan

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 (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Section 10-44. Construction & Inspection Procedures.

a. A permit is required from the Engineering Department 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 and/or Development Services Engineer 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 Development Services Engineer shall be satisfied that the following conditions have been met:

1. The preliminary plat has been approved by the Commission.
2. All required documents shall be completed and filed with the Development Services Engineer.
3. All necessary off-site easements or dedications required for City maintained facilities must be conveyed solely to the City with proper signatures affixed. The original of the documents, and filing fees shall be returned to the Engineering Department and/or Development Services 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 Engineering Department 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 Development Services Engineer.
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 Tyler 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, subgrade 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 inspection shall be supervised by the City Engineer. 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 and/or Development Services Engineer. If the City Engineer 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 and/or Development Services Engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Section 10-45. 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 and/or Development Services Engineer, 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 Development Services Engineer 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 as provided in City Code Chapter 19 for water and sewer improvements and Section 10-46 for all other 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. 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 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 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. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

Section 10-46. 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 which 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 and escrow policies contained in this article.

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 Code Chapter 19.

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. Funding of water and sewer utility improvements will be in accordance with City Code Chapter 19.

2. Drainage. The developer shall bear the full cost of all drainage structures including inlets, culverts, storm sewers, manholes, and subdrains 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. City Code Section 10-108 governs the City's participation in controlling flooding and erosion with creeks and drainage courses.

3. Paving. The cost of clearing, excavation to a depth of one (1) foot, subgrade stabilization, installing curb and gutter, and paving shall be the sole responsibility of developer for standard width streets as set forth in Section 10-40. If funds are available, City shall pay for clearing, paving, subgrade 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 of Tyler's Standard 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 judgment, 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 Development Services Engineer, 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 Development Services Engineer. 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 and/or Development Services Engineer. 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. (Ord. No. 0-2000-11, 3-1-2000) (Ord. No. 0-2006-19; 2/8/06)

PART 4: That Tyler City Code Chapter 10, "Planning and Zoning", Article III, "Development", Division B., "Master Street Plan", is hereby amended by amending Section 10-61, read as follows:

Sec. 10-61. Master Street Plan

a. Purpose. A Master Street Plan has been approved by the City Council on April 27, 2005, to establish arterial streets and to serve as a guide for future collector street development in Tyler. The purpose of this plan is to provide for orderly improvement and expansion of the roadway system at minimum cost as the need for improvements arises. The plan delineates the street network estimated to be needed in the future for the Tyler urban area and its extraterritorial jurisdiction. A copy of the Master Street Plan is on file and available for public review in the Planning and Zoning Department and City Clerk's Office. (0-2005-29, 4/27/05)

b. Map. A map labeled "Master Street Plan" and a report are hereby adopted as the City's street plan for the areas within the City limits, including both inside and outside Loop 323, and within the City's extraterritorial jurisdiction. The City Council will use the report as a guide to assist with future City ordinance amendments, such as the Subdivision Ordinance. A copy of the map and the report are on file and available for public review in the Planning and Zoning Department and City Clerk's Office. (0-2005-29, 4/27/05)

c. Unplatted properties; exemption to right-of-way dedication requirements for certain replats.

1. All unplatted property shall be required to meet all requirements of the Master Street Plan, including the Master Street Plan dedication requirements in Section 10-40.d.3(a).

2. An exemption to the Master Street Plan right-of-way dedication requirements in Section 10-40.d.3(a) for Major and Minor Arterials shall be allowed when the property is replatted, if all of the following requirements are met:

- (a) There is an existing plat of record for the property to be replatted; and
- (b) Any newly created lots have an existing building that is designed and built for the support, enclosure, shelter, protection or use for permanent or continuous occupancy by persons for assembly, business, education, industrial, institutional, mercantile or residential purposes.

NOTE: Newly created lots from a replat that do not include buildings shall be subject to the Master Street Plan right-of-way dedication requirements in Section 10-40.d.3(a). (Ord. No. 0-2006-11, 1/11/06) (Ord. No. 0-2006-19; 2/8/06)

d. Voluntary Joint Applications for Amendments to Master Street Plan. Any person that desires to develop a street in a manner inconsistent with the requirements of the Master Street Plan, Maps or report described above, may seek to file a written request jointly signed by the person, the City, and all parties to be immediately affected by the requested change, with the Planning and Zoning Department. The filing fee for such voluntary joint amendment application shall be \$150.00. If all parties agree, then the proposed amendment application will then be placed on a Planning and Zoning Commission agenda. The Planning and Zoning Commission shall conduct a public hearing

and shall then make a recommendation to the City Council. The City Council shall make a final determination concerning the requested change and shall decide if the Master Street Plan, report or Maps will be followed or amended. (Ord. No. 0-2006-11, 1/11/06)

e. Appeals. Any person that desires to develop a street in a manner inconsistent with the requirements in the Master Street Plan, Maps or report described above shall file a written request along with the reasons therefor and a one hundred dollar (\$100.00) filing fee with the Planning Department. The appeal or requested change will then be placed on a Planning and Zoning Commission agenda. The Planning and Zoning Commission shall conduct a public hearing and shall then make a recommendation to the City Council. The City Council shall make a final determination concerning the appeal and requested change and shall decide if the Master Street Plan, report or Maps will be followed or amended. (0-99-91; 11/17/99) (O-2003-38, 7-23-03) (0-2005-29, 4/27/05) (Ord. No. 0-2006-11, 1/11/06)

f. Amendments to Master Street Plan. The following amendments to the Master Street Plan approved by the City Council on April 27, 2005, are hereby made.

1. The portion of Cumberland Road extending from Paluxy to Broadway shall continue to be designated as a minor arterial but be limited to the existing one hundred feet (100') of Right-of-Way rather than the proposed one hundred five feet (105') approved for other arterials. (0-2005-27, 4/27/05)

2. A one hundred five foot (105') minor arterial proposed right-of-way along Rice Road, located at the northeast corner of the intersection of Richmond Road and Rice Road, extending 418 feet east along the north side of Rice Road. The dedication of twenty-two and one-half feet (22 ½') of right-of-way is not required, but the existing fifteen foot (15') landscape easement is recognized and the dedication of an additional seven and one-half feet (7 ½') of right-of-way is required to total to twenty-two and one half feet (22 ½'). (0-2005-87; 10/26/05)

3. The required right-of-way for one way streets as designated in Chapter 17, Article IV., shall be sixty-five feet (65') for Major Arterials, and sixty feet (60') for Minor Arterials and collectors. (Ord. No. 0-2006-11, 1/11/06)

4. Removing from the Master Street Plan a portion of a 105' proposed right of way (minor arterial) located approximately 350 feet south of the intersection of Maggie Circle and US Highway 69 South, extending 3150 feet west and southwest from US Highway 69 South across property owned by Maurice and Jimmie LaPerriere (0-2006-1; 1/11/06).

PART 5: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 6: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be February 10, 2006.

PASSED AND APPROVED this 8th day of February, A. D., 2006.

JOSEPH O. SEEBER, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY