

CHAPTER 10

SUBDIVISION REGULATION

ARTICLE 10.01 GENERAL PROVISIONS*

(Reserved)

ARTICLE 10.02 PLATTING AND SUBDIVISION FEES AND CHARGES

Sec. 10.02.001 Generally

Any person, firm or corporation desiring to divide any piece of property into two or more pieces, or to join together property, or to make other requests within the jurisdiction of the city, shall first file an application with the city secretary, together with a filing fee according to the appropriate fee schedule, before any governing body or official will start the process of reviewing for approval or denial. (2000 Code, sec. 9.101)

Sec. 10.02.002 Amount

The amount of the fee or fees is listed on the fee schedule found in [appendix A](#) of this code. If the specific type of proposed work is not included in the fee schedule, the city secretary shall determine the fee by selecting an item that would be similar in nature of action or work. (2000 Code, sec. 9.102)

Sec. 10.02.003 Refunds

There will be no refunds of fees except in the following instances:

- (1) When it is determined that a permit cannot be legally issued, a full refund may be authorized.
- (2) In cases where a permit has been issued and the fee paid, and no portion of the work has been commenced, the city will in any case retain \$100.00 or the total amount paid if less than \$100.00.

(2000 Code, sec. 9.103)

Sec. 10.02.004 Exemptions

No permit fee or plan review fee is required for work involving buildings or structures, the title of which is directly vested in the U.S. government, the state, the county, the city or public school districts. (2000 Code, sec. 9.104)

Sec. 10.02.005 Double fees for commencing work without permit

Where work for which a permit is required is started or proceeded with prior to obtaining said permit, the fees herein specified shall be doubled, but the payment of such fee shall not relieve any persons from fully complying with the requirements of the applicable code or ordinance in the execution of the work nor from any other penalties prescribed in such codes or ordinances. (2000 Code, sec. 9.105)

Sec. 10.02.006 Expiration of applications and permits

All applications and permits shall expire at the end of two years from the date of the application or date

of permit if no progress has been made toward completion of the project. Progress toward completion of a project shall be determined in accordance with V.T.C.A., Local Government Code section 245.005. (2000 Code, sec. 9.106)

Sec. 10.02.007 Payment

All fees and permit charges are payable at the time of application unless specified otherwise on the fee schedule. (2000 Code, sec. 9.107)

Sec. 10.02.008 Performance bonds

At the discretion of the city council, performance bonds may be required. (2000 Code, sec. 9.108)

Sec. 10.02.009 Responsibility of applicant to read ordinances related to application

It is the responsibility of the applicant to read all ordinances related to any application. (2000 Code, sec. 9.109)

Sec. 10.02.010 Annexation/deannexation fees

The fees for annexations and deannexations shall be as provided for in the fee schedule found in [appendix A](#) of this code. (2000 Code, sec. 9.110)

ARTICLE 10.03 SUBDIVISION ORDINANCE*

Division 1. Generally

Sec. 10.03.001 Authority

The following rules and regulations are hereby adopted as the subdivision regulations of the City of Oak Point, Texas, also known and cited "Oak Point Subdivision Ordinance" and shall be applicable to the filing of plats and the subdivision of land, as the term is defined herein and in V.T.C.A., Local Government Code ch. 212 (formerly article 974a), within the corporate city limits of the City of Oak Point as they may be from time to time adjusted by annexation or disannexation and within all the areas of the extraterritorial jurisdiction of the City of Oak Point as that area may exist from time to time as provided by V.T.C.A., Local Government Code ch. 42 (formerly article 970a), and the city shall have all remedies and rights provided by said chapter 212 with regard to the control and approval of subdivisions and plats both within the city and within its extraterritorial jurisdiction. (2000 Code, sec. 9.201.1)

Sec. 10.03.002 Interpretation and purpose

(a) In the interpretation and application of the provisions of these regulations, it is the intention of the city council that the principles, standards and requirements provided for herein shall be minimum requirements for the platting and developing of subdivisions in the City of Oak Point and its extraterritorial jurisdiction, amending certain other ordinances of the city and superseding the previous subdivision regulations (Ordinance 170). Subdivision of land is one of the first steps in the process of urban development. The distribution and relationship of residential, commercial, industrial, and agricultural uses throughout the community along with the system of improvements for thoroughfares, public facilities, and community amenities determine in large measure the quality of life enjoyed by the

residents of the community. Health, safety, economy, amenities, environmental sensitivity, and convenience are all factors which influence and determine a community's quality of life and character. A community's quality of life is of public interest. Consequently, the subdivision of land, as it affects a community's quality of life, is an activity where regulation is a valid function of municipal government. The regulations contained herein are designed and intended to encourage the development of a quality urban environment by establishing standards for the provision of adequate light, air, open space, stormwater drainage, transportation, public utilities and facilities, and other needs necessary for ensuring the creation and continuance of a healthy, attractive, safe, and efficient community that provides for the conservation, enhancement, and protection of its human and natural resources. Through the application of these regulations, the interests of the public, as well as those public and private parties, both present and future, having interest in property affected by these regulations are protected by the granting of certain rights and privileges. By establishing a fair and rational procedure for developing land, the following requirements further the possibility that land will be developed for its most beneficial use in accordance with existing social, economic, and environmental conditions, and will retain and enhance the open, "country" ambience of the City of Oak Point.

- (b) The procedure and standards for the development, layout and design of subdivisions of land within the corporate limits and extraterritorial jurisdiction of the City of Oak Point, Texas are intended to:
- (1) Promote and develop the utilization of land in a manner to assure the best possible community environment in accordance with the city's comprehensive plan, and where applicable, the zoning ordinance of the City of Oak Point;
 - (2) Guide and assist the subdividers in the correct procedures to be followed and to inform them of the standards which shall be required;
 - (3) Protect the public interest by supervising the location, design, class and type of streets, sidewalks, utilities, and essential areas and services required;
 - (4) Assist orderly, efficient and coordinated development within the city and its extraterritorial jurisdiction;
 - (5) Provide neighborhood conservation and prevent the development of slums and blight;
 - (6) Harmoniously relate the development of the various tracts of land to the existing community and facilitate the future development of adjoining tracts;
 - (7) Prevent pollution of the ground, air, and water; to assure the adequacy of drainage facilities; to safeguard both surface and ground water supplies; and to encourage the wise preservation, use, and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the community and the value of the land;
 - (8) Preserve the natural features of the municipality and to ensure appropriate development with regard to these natural resources; retaining and enhancing the "country place" atmosphere of the city;

- (9) Establish adequate and accurate records of land subdivision;
- (10) Ensure that public or private facilities are available and will have sufficient capacity to serve proposed subdivisions and developments within the extraterritorial jurisdiction;
- (11) Protect and provide for the public health, safety, and general welfare of the community;
- (12) Protect the character and social and economic stability of all parts of the community and encourage the orderly and beneficial development of all parts of the community;
- (13) Protect and conserve the value of land throughout the community and the value of buildings and improvements upon the land; and minimize the conflicts among the various uses of land and buildings;
- (14) Guide public and private policy and action in providing adequate and efficient transportation systems, public utilities, and other public amenities and facilities.

(c) Minimum standards for development are contained herein and in the City of Oak Point's current design standards and all other applicable ordinances, codes and requirements. The comprehensive plan expresses policies designed to achieve an optimal quality of development in the urban area. If only the minimum standards are followed, as expressed by the various ordinances regulating land development, a standardization of development will occur. This will produce a monotonous urban setting. Subdivision design should be of a quality to carry out the purpose and spirit of the policies expressed in the comprehensive plan and in this article, and are encouraged to exceed the standards required herein.

(2000 Code, sec. 9.201.2)

Sec. 10.03.003 Definitions

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely discretionary.

Access easement. An easement designated on the final plat which provides access to platted tracts excepting single-family and duplex residential. The easement shall meet all of the requirements as set forth for a dedicated street, including but not limited to construction standards, width, building lines, and function, but shall be privately maintained.

Administrative officer. The city manager or a person as designated by the city manager to administer this article and is responsible for coordinating the review of all plats and construction documents.

Administrative plat or minor plat. A type of final plat, limited in application, which may be approved by the designee of the city council.

Alley. A minor public right-of-way not intended to provide the primary means of access to abutting lots,

which is solely used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street.

Amending plat. A plat which is controlling over the preceding plat without vacation of that plat which is submitted for approval of certain dimensional and notational corrections and lot line adjustments under the provisions of the Texas Local Government Code. An amending plat is a final plat but does not require a public hearing.

Building line. A line parallel to a property line at the specific distance therefrom marking the minimum distance from the property line that a structure may be erected.

City. The City of Oak Point, Texas together with all its governing and operating officials, boards, committees, and commissions.

City council. The duly elected governing body of the City of Oak Point, Texas.

City engineer. "City engineer" shall apply only to such registered professional engineer or firm of registered professional consulting engineers that has been specifically designated as such by the city.

City manager. The person holding the position of city manager as appointed by the city council.

Commission. The planning and zoning commission of the city.

Comprehensive plan. The comprehensive plan of the city and adjoining areas as adopted by the city council and the planning and zoning commission, including all its revisions. This plan indicates the general location recommended for various land uses, transportation routes, public and private buildings, streets, parks, water, sewer, and other public and private developments and improvements. The comprehensive plan may also be defined as the series of plans such as the thoroughfare plan, water and sewer plan, annexation plan, and park master plan, among others.

Condominium. Joint ownership and control, as distinguished from sole ownership and control - ownership of specified horizontal layers of air space; each condominium unit is individually owned, while the common elements of the condominium building, structure or development are jointly owned, may be commercial, industrial, recreational, or residential.

Cul-de-sac. A street having but one outlet to another street, and terminated on the opposite end by a vehicular turnaround.

Dead-end street. A street, other than a cul-de-sac, with only one outlet.

Design standards. The currently adopted document which provides the general requirements for the design of public improvements, private improvements that connect to or affect the public infrastructure and the supporting documents for approval in the City of Oak Point and its extraterritorial jurisdiction. Specific design criteria is included in the document. This document shall be the same document adopted by the City of Denton and in effect on August 15, 2005, and known as the City of Denton Criteria Manual.

Development. A planning or construction project involving substantial property involvement and usually including the subdivision of land and change in land use character.

Development review committee (DRC). Comprised of the mayor, city manager, chairperson of planning and zoning (or his/her designee), city engineer, city planner, chairperson of parks board (or his/her designee), chairperson of economic development advisory board (or his/her designee), and the council liaisons appointed for each project.

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

Engineer. A person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering and who is specifically qualified to design and prepare construction plans, specifications and documents for subdivision development.

Filing date. The date when all necessary forms, fees, and copies are submitted for review, recommendation, and approval by the commission and/or city council, and such forms, fees and requirements are acknowledged as being complete.

Final plat. A map or drawing of a proposed subdivision prepared to meet all of the requirements for approval by the city council and recordation in general conformance with the final plat recommendation by the commission. Distances shall be accurate to the nearest hundredth foot. The final plat of any lot, tract, or parcel of land shall be recorded in the records of Denton County, Texas. An amended plat is also considered a final plat, with the requirements for such being defined in the Local Government Code.

Fire lane. A required access for emergency vehicles to be shown on the plat as a privately maintained easement providing public access.

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

Land planner. Persons other than surveyors or engineers who also possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial, and other related developments; such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum and/or by actual experience and practice in the field of land planning,

and may be a member of the American Institute of Certified Planners.

Lot. A divided or undivided parcel of land having frontage on at least one public street which is or in the future may be offered for sale, conveyance, transfer or improvement; which is designated as distinct and separate; and which is identified by lot number and block number or symbol in a duly approved subdivision plat which shall be properly filed for record in the records of Denton County, Texas.

Lot area. The total area, measured on a horizontal plane, included within the lot or property lines.

Multifamily dwelling. A structure designed to contain three or more complete and separate living facilities for single-family occupancy. Multifamily dwellings shall include apartments and condominiums and shall be platted accordingly.

One-foot reserve. A buffer strip established within the public street right-of-way and adjacent unsubdivided acreage to prevent access to the public street right-of-way for a street on or parallel to the plat boundary. When adjacent property is platted, the one-foot reserve becomes vested in the public for street right-of-way purposes.

Patio home or zero lot home. A single-family detached dwelling unit with a zero building line on one side and a minimum ten-foot side yard on the other. There shall be right to access to the dwelling from the adjoining side yard for maintenance purposes.

Pavement width. The portion of a street available for vehicular traffic from back of curb to back of curb.

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

Planned development. A form of development which promotes the development of a tract of land in a unified manner and which may allow for certain variances from the established development standards for lot sizes, lot width, [and] building lines, as established in this article.

Planning and zoning commission. Same as commission. The commission is appointed by city council under the provisions of an enabling ordinance to review and make recommendations on subdivision plats and other planning issues. The commission also creates, maintains and makes recommendation for approval for submission to city council, documents described as the zoning ordinance and the subdivision regulations, and causes said documents to enable the concepts contained in the comprehensive plan.

Plat. A map or drawing of a proposed subdivision.

Plat certificate. A certificate issued upon approval and recordation of the subdivision certifying that the subdivision has met all the requirements for the plat.

Preliminary plat. A map or drawing of a proposed subdivision illustrating the features of the development for review and recommendation by the commission, but not suitable for recordation in the county records.

Principal building. The building in which the principal use of the lot on which it is located, is conducted.

Record plat. A plat of any lot, tract or parcel of land that is recorded with the Denton County clerk following final approval by the city council.

Replat. The resubdivision (separation) of all or any part or all of any block or lots of a previously platted subdivision.

Reserve. A reserve is the same as a lot and subject to the same platting requirements.

Street. A public right-of-way, however designated, which provides vehicular access to adjacent land.

- (1) Arterial streets (also major thoroughfares, primary thoroughfares, etc.) provide vehicular movement from one neighborhood to another, to distant points within the urban area or to freeways or highways leading to other communities.
- (2) Collector streets (also feeder streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods and from minor streets to major thoroughfares. Due to similarity of traffic volume and wheel loadings, streets through commercial and industrial areas are considered collector streets.
- (3) Local residential streets are primarily for providing direct vehicular access to abutting residential property.

Street (rights-of-way) width. The shortest distance between the lines which delineate the rights-of-way of a street.

Subdivider. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term "subdivider" shall be restricted to include the owner, equitable owner, or authorized agent and is synonymous with developer.

Subdivision (also addition). A division of a lot, tract, or parcel into two or more lots, tracts, or parcels or other divisions of land for sale or development or for laying out lots, and streets, alleys or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto; however, when such lot, tract, etc. is divided for sale or development and the remaining parcel is more than five acres, the remainder does not have to be platted. Subdivision shall include the dedication of public streets, access easements, utility easements and fire lanes. The resubdivision of lots in a previous subdivision is a subdivision.

Surveyor. A registered professional land surveyor, as authorized by statutes, to practice the profession of surveying.

Thoroughfare plan. A plan adopted by the city council which identifies the general routing and classification of proposed streets and thoroughfares as they relate to the land uses they are proposed to serve.

Townhouse. A residential unit that shares at least one common or party wall with another unit. Each unit and the land upon which it stands is individually owned, subject to a party wall agreement with the adjacent owner. Townhouse developments generally are cluster developments in which the land surrounding the house units is owned in common by the townhouse owners.

Tract. A tract is the same as a lot and shall be subject to the same platting requirements.

Zoning ordinance. The ordinance which sets forth land use regulations and standards within the corporate limits of the City of Oak Point.

(2000 Code, sec. 9.201.3)

Sec. 10.03.004 Application of regulations

(a) No plat of a subdivision within the corporate limits or extraterritorial jurisdiction shall be recorded until a final plat, accurately describing the property to be conveyed, has been prepared in accordance with these subdivision regulations[,] recommended by the commission and approved by the city council.

(b) No building permit, or certificate of occupancy, or plumbing permit, or electrical permit, or floodplain reclamation permit, or utility tap, or acceptance of required public improvements within the corporate limits shall be permitted without a recorded plat or letter of plat exemption.

(2000 Code, sec. 9.201.4)

(c) Any subdivision within the city and/or its extraterritorial jurisdiction shall conform to the subdivision regulations, City of Oak Point current design standards and other applicable ordinances and standards to the extent allowed by chapter 212 of the Texas Local Government Code. (Ordinance 2004-04, sec. 2, adopted 10/20/03)

(d) Plat approval certification. In accordance with state law, the following procedures shall be followed before any utility service connection, including but not limited to, water, gas, sewer, and electricity, may be made or any such utility service provided:

(1) Upon approval of a plan, plat or replat by the city council, the city shall issue to the person or entity applying for the approval a certificate stating that the plan, plat, or replat has been reviewed and approved by city council.

(2) Determination of requirements for platting.

(A) Upon written request of an owner of land or a public utility, the city shall make the following determinations regarding the owner's land or the land in which the public utility is interested and that is located within the city's platting jurisdiction:

(i) Whether a plan, plat or replat is required by law; and

(ii) If a plan, plat or replat is required, whether it has been prepared as required and reviewed and approved by city council.

Such request must identify the land, by metes and bounds, address or other adequate legal description, which is the subject of the request.

(B) If the city determines that a plan, plat or replat is not required, the city shall issue to the requesting party a written certification of that determination. If the city determines that a plan, plat or replat is required, [and] that such a document has been prepared, reviewed and approved by city council, the

city shall issue to the requesting party a written certification of that determination.

(C) The city shall make its determination within 20 days after the date it receives the request and shall issue the certificate within ten days after the determination is made.

(3) For purposes of this subsection only, the following definitions shall apply:

(A) City shall mean the city engineer or other appropriate city official, as designated from time to time by the city manager.

(B) Public utility shall mean any entity, other than a municipality, that provides water, sewer, electricity, gas or other utility service.

(e) No plat shall be released for filing or issued a plat certificate unless all improvements have been approved in accordance with the subdivision ordinance and the current design standards.

(2000 Code, sec. 9.201.4)

Sec. 10.03.005 Subject developments

The provisions of these subdivision regulations, and the current design standards shall apply to the following forms of land subdivision and development activity:

(1) The division of land into two or more lots, tracts, reserves, sites or parcels; or

(2) All subdivisions of land whether by metes and bounds, division or plat, which were outside the jurisdiction of the city's subdivision regulations in Denton County, Texas and which subsequently came within the jurisdiction of the city's subdivision regulations through annexation or extension of the city's extraterritorial jurisdiction.

(3) The division of land previously subdivided or platted into tracts, lots, sites or parcels and not recorded; that were subject to and not in accordance with adopted city subdivision regulations in effect at the time of such subdividing or platting.

(4) The combination of two or more contiguous tracts, lots, sites or parcels for the purpose of creating one or more legal lots.

(5) The dedication or vacation of streets, fire lanes and alleys, through any tract of land regardless of the area involved.

(6) The vacation of a previously recorded subdivision plat.

(7) Permanent public or semipublic spaces (such as golf courses, recreational uses, institutional uses, schools, open spaces or park areas, and similar uses).

(8) Any other development on an undeveloped or semi-developed site within the corporate limits or extraterritorial jurisdiction.

(2000 Code, sec. 9.201.5)

Sec. 10.03.006 Exemptions

(a) The provisions of these subdivision regulations shall not apply to:

- (1) Land legally platted and approved prior to the effective date of these subdivision regulations except as otherwise provided herein (construction of facilities shall conform to the design standards in effect at the time of construction); or
- (2) Land constituting a single tract, lot, site or parcel for which a legal deed of record describing the boundary of such tract, lot, site or parcel was filed of record in the Deed Records of Denton County, Texas on or before the city's incorporation date of April 9, 1976.
- (3) Sales of tracts of land by metes and bounds or tracts on which no improvements or alteration dividing the original tract is occurring.
- (4) Existing cemeteries complying with all state and local laws and regulations (exemptions do not apply to new cemeteries or expansion of existing cemeteries).
- (5) Divisions of land created by order of a court of competent jurisdiction.
- (6) Subdivision development that is exempt by state law.
- (7) If platting is not required, the city shall issue a certificate of exemption prior to issuing a building permit or site plan approval.

(2000 Code, sec. 9.201.6)

- (b) The provisions of these subdivision regulations that do not apply to the city's extraterritorial jurisdiction pursuant to chapter 212 et seq. of the Texas Local Government Code shall be exempt hereunder. Such provisions include, but are not limited to, [sections 10.03.097\(6\)](#) and [10.03.098](#). (Ordinance 2004-04, sec. 3, adopted 10/20/03)

Secs. 10.03.007–10.03.040 Reserved

Division 2. Procedures and Requirements

Sec. 10.03.041 Purpose

The purpose of this article [division] is to establish the procedures and requirements for the submittal, review, recommendation, consideration and action by the commission and city council to provide the necessary details and orderly processing of the subdivision of land in the City of Oak Point and its extraterritorial jurisdiction. (2000 Code, sec. 9.202.1)

Sec. 10.03.042 Pre-application

- (a) Prior to filing any plan, plat or proposed development, an applicant shall consult with the development review committee. The city secretary or city clerk may schedule a pre-design conference with the development review committee. The purpose of the conference is to allow the applicant and development review committee to review and discuss the proposed development, to make a determination of what information and studies may be required to be submitted during the plat procedures, and to receive or exchange any other information or take any action necessary to facilitate processing of the plat application.

(b) Unless waived by the development review committee, each applicant shall submit a sketch plan of the proposed development to the city secretary or city clerk prior to the date of the pre-design conference. The purpose of the sketch plan is to provide an approximately scaled representation of a development proposal for use in discussions between the applicant and the city staff at the pre-design conference. Review of the sketch plan shall not constitute approval and indicate the full extent of the city's requirements. The sketch plan, which shall be submitted in the form and manner specified by the department, shall show the following:

- (1) Development name, north arrow and date.
- (2) The size, shape, type and physical location of the development.
- (3) The number and size of lots and buildings.
- (4) The proposed streets and street access.
- (5) Existing drainage facilities and general topographical information.
- (6) Any other information requested by the development review committee.

(2000 Code, sec. 9.202.2)

(c) The city manager shall cause a written summary report of the results of the development review committee meeting to be generated and delivered to the planning and zoning commission within seven (7) business days of the meeting. (Ordinance 2004-04, sec. 4, adopted 10/20/03)

(d) (1) A property within the city's corporate limits that is being proposed for platting or development must be properly zoned by the city prior to submission of an application for approval of any land plan or plat. In addition, the proposed development layout or subdivision design shown on the proposed land plan or plat must be in conformance with all standards and requirements prescribed in the city's zoning ordinance and this article.

(2) Noncompliance with the requirements of the zoning district in which the subject property is located, or lack of the proper zoning, shall constitute grounds for denial of the land plan or plat. In situations where the zoning on a particular piece of property cannot be ascertained by the city, the burden of proof regarding the property's zoning shall rest with the property owner. Proof of proper zoning shall consist of appropriate documentation, such as a copy of the ordinance establishing the zoning, which shall be reviewed by city officials as to its validity and authenticity.

(2000 Code, sec. 9.202.2)

Sec. 10.03.043 Land plan approval

The purpose of the land plan is to allow the commission and city council to review the proposed major thoroughfare and collector street patterns, land use, environmental issues, conformance to the comprehensive plan, and the property's relationship to adjoining subdivisions and properties.

(1) (A) A land plan (general plan, master plan, concept plan) shall be submitted to the city manager for review by the commission and the city council, for approval of the concept, prior to or in conjunction

with the submittal of any preliminary or final plat, except as noted below, for any tract of land over 50 acres in size proposed for residential use; or any parcel proposed for nonresidential use over 30 acres. If the development review committee determines that an area less than 50 acres contains unique features for [or] is surrounded by existing or proposed subdivisions with potential limited access, a land plan may be required to be reviewed prior to the preliminary or final plat submittal.

(B) When a phased or partial development is proposed, the land plan area shall include the entire property from which the phase is being subdivided. Where the applicant can demonstrate that natural or man-made features, such as thoroughfares and creeks, make unnecessary the inclusion of the entire property in the land plan to adequately review the items listed in the preceding paragraph, the subdivider may request approval from the city manager for submittal of a smaller land plan area. Boundaries such as thoroughfares (existing or proposed), creeks, political subdivisions, or other such natural or man-made features may be used to delineate the smaller land plan area.

(2000 Code, sec. 9.202.3)

(2) The land plan shall be reviewed by the commission for conformance with park land dedication requirements prior to issuing a recommendation on the land plan. Substantial changes to the land plan that may affect the park dedication requirements and park location shall be submitted to the commission. In reviewing the land plan, the commission shall refer to [section 10.03.132](#) to ensure compliance. (Ordinance 2004-04, sec. 5, adopted 10/20/03)

(3) The submittal of the land plan shall be accompanied by the completed application as specified by the city. The submittal fees are set by separate ordinance and must accompany the application. No meeting of the development review committee shall be scheduled until a completed application is submitted including any applicable fees. (2000 Code, sec. 9.202.3)

(4) Any land plan or plat subdivision involving a change to a proposed corridor in the City of Oak Point Thoroughfare Plan must be preceded by submission of a traffic impact analysis if required by the development review committee. Failure to provide a traffic impact analysis, if required, prior to the submission of the land study or plan may be grounds for denial. (Ordinance 2004-04, sec. 5, adopted 10/20/03)

(5) The approval in concept of the land plan by the city council does not constitute approval of the subsequent plats within the plan boundaries.

(6) The graphic requirements for the land plan are contained in this article in section 10.03.050 [[10.03.051](#)].

(2000 Code, sec. 9.202.3)

Sec. 10.03.044 General requirements for preliminary plat

(a) A preliminary plat of any proposed subdivision shall be submitted for commission review and recommendation for approval in compliance with the schedule and requirements set forth in this article.

(b) The city requires proof of land ownership prior to approval of any land plan or plat application. Along with the application submission, the applicant shall provide written verification, such as a notarized statement or a power of attorney or other evidence satisfactory to the city manager (or designee), that he or she is the owner of record of the subject land parcel or parcels, or is the property owner's authorized agent. The city manager (or designee) shall have the authority to determine what document(s) the city will require or to prove ownership, such as one of the following:

- (1) General warranty deed;
- (2) Special warranty deed;
- (3) Title policy; or
- (4) Some other documentation that is acceptable to the city manager (or designee).

If ownership cannot be conclusively established prior to the meeting date on which the application will be heard, the city shall have the authority to deny the application on the basis of protecting the public interest. The applicant may resubmit a new application, including the submission fees, for the property at any time following such denial.

(c) The preliminary plat shall be accompanied by the completed application as provided, and appropriate fees at least 28 days prior to the commission meeting at which it is to be considered. An application for plat approval shall be considered administratively complete upon the occurrence of all of the following: (1) the city staff and city engineer have determined that it meets all requirements of applicable city ordinances so that it may be reviewed by the planning and zoning commission, (2) the plat application has been placed on an agenda for the planning and zoning commission, and (3) the planning and zoning commission agenda has been posted as required by law. An incomplete application shall not be considered "filed" with the city as defined herein, but shall be returned to the applicant for completion and resubmittal.

(d) The requested number of copies of prints of the proposed subdivision drawn on sheets at a size of 24 inches by 36 inches and drawn to a minimum scale of 100 feet to the inch shall be submitted in the number of copies specified by the city. The required number of copies and reductions (11 inches x 17 inches) shall be as specified by the city.

(e) The preliminary plat shall be in accordance with the land plan and all approved comprehensive, water, sewer, and thoroughfare plans.

(f) The preliminary plat shall be prepared by a certified engineer, land planner, or surveyor.

(g) The city manager shall be furnished with copies of letters verifying contact with the following agencies:

(2000 Code, sec. 9.202.4)

(1) The appropriate school district official has been supplied a copy of the land plan of the proposed subdivision and the preliminary subdivision plat for planning purposes by the school district. (Ordinance

2004-04, sec. 6(a), adopted 10/20/03)

- (2) All applicable utility companies including water, light and telephone, stating that the utility companies have knowledge of the proposed subdivision and are currently negotiating the necessary service easements. A copy of the preliminary plat should be sent to the utility company at this time for the establishment of easements.
- (3) The appropriate post office stating that postal service will be available.
- (4) Any other applicable district or entity with jurisdiction in the area to verify adequate capacities and applicable fees.
- (5) The application shall be accompanied by a certificate or other satisfactory evidence from the county tax assessor-collector showing that all taxes have been paid on the subject property, and that no delinquent taxes exist against the property. Documentation shall also be included that shows no delinquent tax assessments, fees, or other debts or obligations to the city and which are directly attributable to the subject property.

These verification letters must be received by the city manager prior to the final plat recommendation by the commission. If the letters are not available at this time, the recommendation of the plat by the commission shall be contingent upon the receipt of the letters.

(h) The city manager shall make a study of the preliminary plat and shall cause a written report to be given to the commission before its consideration for recommendation. The subdivider or his representative shall be provided, upon request, with a copy of this report prior to the commission meeting.

(2000 Code, sec. 9.202.4)

(i) The commission shall take action on the plat at a regularly scheduled meeting held within thirty (30) days of the date the preliminary plat for which approval is requested is submitted to the city clerk and deemed administratively complete. This deadline may be extended an additional thirty (30) days if the applicant requests or consents in writing to the extension to act upon the plat. If the plat meets all the requirements of these regulations, the commission shall approve the plat. If the plat does not meet the requirements of these regulations, the commission shall disapprove the plat, unless the applicant agrees at the meeting at which action is to be taken to correct or remedy the deficiency on which the disapproval is based in the submission of the final plat. If the preliminary plat is disapproved, no further action shall be taken on the application until or unless a new application and preliminary plat is submitted in accordance with these regulations. (Ordinance 2004-04, sec. 6(b), adopted 10/20/03)

(j) Upon approval of the preliminary plat by the commission, the preliminary plat shall be submitted to the city council at a regularly scheduled meeting within thirty (30) days after the date the preliminary plat is approved by the commission for final approval as required by section 212.009 of the Texas Local Government Code, as amended. This deadline may be extended an additional thirty (30) days if the

applicant requests or consents in writing to the extension to act upon the plat. (Ordinance 2004-04, sec. 6(c), adopted 10/20/03)

(k) An approved preliminary plat shall be effective for one (1) year. (Ordinance 2004-04, sec. 6(d), adopted 10/20/03)

(l) No construction work shall begin on the proposed improvements in the proposed subdivision prior to the approval and recordation of the final plat. Any required permits shall be issued prior to commencement of work.

(m) A preliminary plat shall not be required if the proposed subdivision meets the criteria as set forth in [section 10.03.046](#) (short form final plat).

(n) The graphic requirements for a preliminary plat are contained in this article in [section 10.03.051](#). (2000 Code, sec. 9.202.4)

Sec. 10.03.045 General requirements for final plat

(a) A final plat and engineering construction drawings and specifications are required for any area in the city or its extraterritorial jurisdiction. The final plat shall be in general conformance with the preliminary plat as recommended and shall incorporate all conditions, changes, directions and additions recommended by the commission. The final approval shall be by the city council. The final plat shall not be submitted for city council approval until detailed engineering plans have been submitted for approval by the city. (2000 Code, sec. 9.202.5)

(b) The final plat shall constitute only that portion of the approved preliminary plat which the subdivider proposes to record and then develop. Such portion shall conform to all the requirements of these regulations. If a final plat which is part of an approved preliminary plat is approved within the one-year period that the preliminary plat is valid, approval of such final plat shall constitute an automatic extension of that preliminary plat for one year from the date of the approval of the final plat. If a final plat which is part of an approved preliminary plat is applied for during the one-year period that the preliminary plat is valid but is not finally approved until the one-year period has expired, approval of such final plat shall constitute an automatic extension of that preliminary plat for one year from the original expiration date of the preliminary plat. In the event the application for final plat is denied, no automatic extension of the preliminary plat shall have occurred. (Ordinance 2004-04, sec. 7(a), adopted 10/20/03)

(c) The final plat shall be submitted for review and recommendation by the commission at least twenty-eight (28) calendar days prior to a regularly scheduled meeting. The statutory thirty-day (30) time period shall begin when all contingencies and all submittal requirements have been completed as certified by the city manager. An application for plat approval shall be considered administratively complete upon the occurrence of all of the following: (1) the city staff and city engineer have determined that it meets all requirements of applicable city ordinances so that it may be reviewed by the planning and zoning commission, (2) the plat application has been placed on the agenda for the planning and

zoning commission, and (3) the planning and zoning commission agenda has been posted as required by law. An incomplete application shall not be considered “filed” with the city as defined herein but shall be returned to the applicant for completion and resubmittal. (Ordinance 2004-04, sec. 7(b), adopted 10/20/03)

(d) The requested number of copies of prints of the proposed subdivision drawn on sheets at a size of 24 inches by 36 inches and drawn to a minimum scale of 100 feet to the inch shall be submitted in the number of copies specified by the city. The required number of copies and reductions (11 inches x 17 inches) shall be as specified by the city. The number of full-size copies and reductions shall be specified by the administrative officer. The submittal shall include:

- (1) A completed application form;
- (2) Copies and reductions of the plat;
- (3) Transmittal letter;
- (4) Fees;
- (5) Title commitment on the specific tract of land;
- (6) Engineering construction plans, or as a minimum requirement, the final utility layout showing the sizes and depths of all utilities as well as street widths; and
- (7) All public utility easements shall be included as required for utility companies or the City of Oak Point.
- (8) Building lines and/or setbacks for each lot.

(e) The filing date of an application for final plat recommendation by the commission shall be the date when the application is certified complete and marked “filed” by the administrative officer. The date the application is certified and marked “filed” is the date to be considered as the initial date of the statutory 30-day time period in which the commission is required to act upon a plat submitted to it under the Texas Local Government Code. All submittal requirements as stated for a final plat ([section 10.03.045\(d\)](#)) shall be met before an application is marked “filed.”

(f) The city manager shall review the final plat for compliance with these regulations and make a written recommendation to the commission. The subdivider or his representative shall be furnished with a copy of the written recommendation.

(g) The commission will consider the final plat and the written recommendation at the regularly scheduled meeting and may take one of the following actions:

- (1) Recommend approval;
- (2) Recommend approval contingent upon corrections or changes to be made to the plat;
- (3) Recommend disapproval;
- (4) Table action until a future specified date; or

(5) Refer back to staff for further review.

(h) The subdivider or his designated representative shall then submit the final plat with any required changes to the city council at least 28 calendar days prior to a regularly scheduled city council meeting.

The submittal shall include the following:

(1) Specified number of full-size copies and reductions of the plat;

(2) Resolution of any contingency items recommended by the commission; and

(3) Current title report for the specific tract;

(4) Performance bonds, letter of credit for the cost of the public improvements, or assurance of completion of the public improvements.

(i) The administrative officer shall review for compliance with the regulations and recommendation of the commission and place the final plat on the city council agenda. Failure of the subdivider to provide any of the required items may cause disapproval of the plat.

(j) The city council shall take action on the plat within the time period specified by the filing date (subsection (k)). The action shall consist of:

(1) Approval; or

(2) Disapproval of the plat.

(k) The filing date of an application for final plat approval by the city council shall be the date the commission recommends approval of the plat. However, if the commission recommends approval with contingencies, the plat will not be considered as "filed" until all contingencies have been met by the applicant. The city manager shall certify when contingencies have been addressed. The statutory 30-day time period shall begin when all contingencies and all submittal requirements have been completed as certified by the administrative officer.

(l) A substantial change to the approved final plat prior to recordation shall require resubmittal to the city council. With the approval of the administrative officer minor changes including addition of easements, corrections of clerical errors or omissions may be made prior to submittal for signatures and recordation.

(2000 Code, sec. 9.202.5)

(m) An approved final plat is valid for recordation for one (1) year from the date of approval by the city council. An extension of approval may be requested in writing at least thirty (30) days prior to the expiration date and submitted to the appropriate body for consideration and approval. The fee for such extension shall be established by separate ordinance. (Ordinance 2004-04, sec. 7(c), adopted 10/20/03)

(n) Prior to the submittal of the final plat for city council approval, engineering construction plans showing paving and design details of streets, alleys, culverts, bridges, storm sewers, water mains,

sanitary sewers and other engineering details of the proposed subdivision shall be submitted to the administrative officer for review by the city engineer. Two copies shall be submitted with the final plat. Such plans shall be prepared by a registered professional engineer and shall conform with the design standards and applicable ordinance adopted by the City of Oak Point.

(o) Following approval by the city council, the specified number of originals may be submitted for signature and the placement of the city seal. If the final plat is within the city limits the originals shall be accompanied by the filing fee and the city shall record the final plat at the county clerk's office. If the final plat is in the extraterritorial jurisdiction the plat originals shall be forwarded by the city to the office of the Denton County Planning Department and recordation.

(p) The final plat (and any replats) shall be prepared by a registered public surveyor.

(q) No construction work shall begin in the proposed improvements in the proposed subdivision prior to the approval and recordation of the final plat except as provided herein. Engineering and construction plans shall also be submitted according to the design standards, in addition to the requirements set forth herein.

(r) The graphic requirements for the final plat are contained in this article in [section 10.03.051](#).

(2000 Code, sec. 9.202.5)

Sec. 10.03.046 Short form final plats (combination preliminary and final plat)

(a) Approval of platting under the short form procedure eliminates the necessity for a preliminary plat as required in section 10.03.044. Application fees for short form platting shall be paid at the time of application.

(b) A short form platting procedure may be requested if the final plat is authorized by the city manager and meets the following requirements:

- (1) No more than four lots, tracts or reserves are included;
- (2) The area to be platted lies within an existing public street circulation system already approved by the city council;
- (3) The proposed development meets all the requirements of the existing zoning district, if applicable;
- (4) The plat does not propose to vacate public street rights-of-way or easements;
- (5) The plat does not propose creation or extension of public rights-of-way;
- (6) The proposed development does not require any significant drainage improvements and, if contained wholly or partially within the 100-year floodplain, conforms to Federal Emergency Management Agency floodplain management rules;
- (7) The proposed development is consistent with the thoroughfare plan and creates no significant traffic congestion on the existing public street system;
- (8) The proposed development creates no variance requests.

(c) This procedure shall not be available if there is evidence of previous repeated use by the owner of the short form procedure in a manner to circumvent the intent of this article or the requirements for larger scale development.

(d) The short form plat shall meet all of the requirements for a final plat in [sections 10.03.045](#) and [10.03.051](#).

(2000 Code, sec. 9.202.6)

Sec. 10.03.047 Vacating of plat

(a) A plat may be vacated by request of the subdivider. In addition to the procedure outlined below and in conformance with the Texas Local Government Code, as amended, the submittal requirements for the vacation to the commission and city council are the same as for approval of a final plat.

(b) Plat vacating procedure by owner.

(1) The owners of the tract covered by a plat may vacate the plat any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed herein for a final plat.

(2) If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(3) The county clerk shall write legibly on the vacated plat the word “vacated” and shall enter on the plat in a reference to the volume and page at which the vacating instrument is recorded.

(4) On the execution and recording of the vacating instrument, the vacated plat has no effect.

(c) Government initiated plat vacation—General conditions. The commission, on its motion, may vacate the plat of an approved subdivision or addition when:

(1) No lots within the approved plat have been sold within five years from the date that the plat was signed by the chairman of the commission; or

(2) The property owner has breached the city’s development contract and the city is unable to obtain funds from the developer’s or contractor’s bonding company with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successors; or

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

(d) Procedure. Upon any motion of the commission to vacate the plat of any previously approved subdivision or addition, in whole or in part, the commission shall publish notice in a newspaper of general circulation in the county and provide personal notice to all property owners within the subdivision or addition and shall also provide notice to the city council. The notice shall state the time

and place for a public hearing on the motion to vacate the subdivision or addition plat.

(e) Record of notice. If the commission and city council adopt a resolution vacating the plat in whole, it shall record a copy of the resolution in the county clerk's office. If the commission and city council adopt a resolution vacating the plat in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

(f) A vacated plat shall be recommended by the commission and approved by the city council. The city council may reject any vacation instrument which abridges or destroys any public rights in improvement, easements, streets, alleys, or similar public areas which are deemed by city council necessary to serve the surrounding area.

(g) An approved vacated plat must be recorded and operates to destroy the effect of the recording of the vacated plat and to divest all public rights to the streets, alleys, and other public areas laid out or described in the plat.

(2000 Code, sec. 9.202.7)

State law reference—Vacating plat, V.T.C.A., Local Government Code, sec. 212.013.

Sec. 10.03.048 Replat

(a) A replat is a redesign of all or part of a recorded plat or subdivision of land which substantially changes the elements of the plat. The same procedures shall be followed as for preliminary, final or short form plat. The replat must be in accordance with the current Texas Local Government Code. A public hearing shall be required on all residential replats when the previous plat is not vacated and not in compliance with paragraph (b) below. The application request for the public hearing for the replat shall be made at least 35 days prior to a regularly scheduled city council meeting.

(b) A replat of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (1) Is signed and acknowledged by all the owners of the property being replatted;
- (2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the City of Oak Point; and
- (3) Does not attempt to amend or remove any covenants or restrictions.

(c) In addition to compliance with paragraph (b) above, a replat without vacation of the preceding plat must conform to the requirements of this paragraph if any of the area proposed for replatting was limited to residential use for not more than two residential units per lot or any lot that was deed restricted for same within the preceding five years. If such is the case then the following procedure is required:

(1) Notice of the hearing required, in accordance with Texas Local Government Code, shall be given before the 15th day prior to the date of the hearing by:

(A) Publication in an official newspaper or a newspaper of general circulation in Denton County; and

(B) Written notice, with a copy of subparagraph (C) below attached, sent to the owners of property in the original subdivision, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved ad valorem tax roll within 200 feet of the property on which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository which contains the zip code identified as Oak Point.

(C) If the proposed replat is protested in accordance with this subparagraph, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of all members of the commission and three-fourths of all members of city council. For a legal protest, written instruments signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, but within the original subdivision, must be filed with the City of Oak Point prior to the close of the public hearing. The property owners shall be furnished with these requirements with the written notice of the public hearing.

(D) In computing the percentage of land under subparagraph (C) above, the area of streets and alleys shall be included.

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

(2) Extension of 30-day period. If action on a residential replat application must be deferred because sufficient written protest has been submitted, the 30-day period in which action must be taken by the council is extended by the period of time necessary to verify the written protest, but shall not exceed 90 days.

(d) The replat of the subdivision shall meet all the requirements for a new subdivision that are in force at the time of application submittal, as provided for herein. It shall show the existing property being resubdivided. No preliminary plat shall be required on replats if waived by the city manager.

(e) The title shall identify the document as "Lots _____, being a replat of Lots _____ of Block _____ of the _____ Subdivision." A reason for the replat shall also be stated on the plat.

(f) A partial replat of only the affected lots will be accepted when the conditions and/or options allowed by the amending plat procedure are not applicable.

(2000 Code, sec. 9.202.8)

State law references—Replating without vacating preceding plat, V.T.C.A., Local Government Code, sec. 212.014; additional requirements for certain replats, V.T.C.A., Local Government Code, sec. 212.015.

Sec. 10.03.049 Amending plat

Amending plat procedure shall be in accordance with the current Texas Local Government Code.

- (1) An amending plat shall meet all of the informational requirements set forth in a final plat.
- (2) The city manager or his designee, may approve an amending plat, which may be recorded an [and] is controlling over the preceding or final plat without vacation of that plat, if the amending plat is signed by the applicants only and the sole purpose of the amending plat shall be to:
 - (A) Correct an error in a course or distance shown on the preceding plat; or
 - (B) Add a course or distance that was omitted on the preceding plat;
 - (C) Correct an error in a real property description shown on the preceding plat;
 - (D) Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting the monuments;
 - (E) Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding;
 - (F) Correct any other type scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including but not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (G) Correct an error in courses and distances of lot lines between two adjacent lots if:
 - (i) Both lot owners joined in the application for amending of a plat; and
 - (ii) Neither lot is abolished; and
 - (iii) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (iv) The amendment does not have a material adverse effect on the property rights of other owners in the plat;
 - (v) No more than five lots are affected per plat;
 - (H) Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
 - (I) Relocate one or more lot lines between one or more adjacent lots if:
 - (i) The owners of all those lots join in the application for amending the plat;
 - (ii) The amendment does not attempt to remove recorded covenants or restriction; and
 - (iii) The amendment does not increase the number of lots.
 - (J) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (i) The changes do not affect applicable zoning and other regulations of the municipality;
 - (ii) The changes do not attempt to amend or remove any covenants or restrictions; and
 - (iii) The area covered by the changes is located in an area that the municipal planning commission or

other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or

(K) To replat one or more lots fronting on an existing street if:

(i) The owners of all those lots join in the application for amending the plat;

(ii) The amendment does not attempt to remove recorded covenants or restrictions;

(iii) The amendment does not increase or decrease the number of lots; and

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

(3) Notice, a public hearing and the approval of other lot owners are not required for the approval and issuance of an amending plat meeting the above requirements.

(4) When an amending plat is prepared, the surveyor shall be required to survey only those lots which are affected by the said changes. The surveyor shall sign the plat stating the lots which have been changed, in addition to any other corrections which have been made.

(5) The property owners for the lots which are changed shall be the only additional signatures necessary to the original signatures.

(2000 Code, sec. 9.202.9)

State law reference—Amending plat, V.T.C.A., Local Government Code, sec. 212.016.

Sec. 10.03.050 Administrative plat

The administrative plat or minor plat, as specified in the Texas Local Government Code, may be used in a limited manner for the purposes of creating or adjusting property lines and/or easements as defined in the plat for the purposes of development flexibility. The minor plat shall involve four or fewer lots on an existing street and shall not require the creation of any new street or extension of municipal facilities.

The administrative plat shall meet all the requirements of a short form ([section 10.03.046](#)) final plat with the exception of approval by the commission and city council. The city secretary/clerk shall be the responsible party to approve the plat and the mayor shall sign the plat, if approved. If there are any questions or concerns, the city secretary/clerk shall direct that the plat [be referred] to the commission and city council for approval. The city secretary/clerk shall not disapprove the plat and shall be required to refer any plat which does not meet the requirements to the commission and city council within the time required for approval according the Texas Local Government Code, as amended. (2000 Code, sec. 9.202.10)

Sec. 10.03.051 Graphic requirements for plats and plans

(a) Graphic requirements of a land plan. The following are the graphic requirements for a land plan:

(1) Prepared at a scale of 1" = 200'.

(2) A title block within the lower right-hand corner of the land plan.

- (3) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, watercourses and ditches. The vicinity map shall be located in the upper right-hand corner of the drawing.
 - (4) Proposed name of the development.
 - (5) The name and address of the subdivider and the land planner, engineer, or surveyor responsible for the design or survey.
 - (6) A graphic scale indicating the scale at which the drawing is prepared.
 - (7) Date of the drawing and revision number if applicable.
 - (8) The legal description of the tract according to the abstract and survey records of Denton County, Texas.
 - (9) North clearly indicated to the top or left of the study.
 - (10) The perimeter of the boundary shall be drawn in a bold solid line.
 - (11) The names of adjacent additions or subdivisions with respective recording information and/or owners of adjoining parcels of unplatted land with respective recording information.
 - (12) The existing zoning on adjoining land, where applicable.
 - (13) The location, width, and names of all existing or platted streets or other public rights-of-way within and/or adjacent to the tract.
 - (14) Existing permanent buildings.
 - (15) Railroad rights-of-way.
 - (16) Topography with contours at five-foot intervals.
 - (17) Existing drainage channels or creeks, and other important natural features.
 - (18) Existing pipelines and easements.
 - (19) Adjacent municipalities, political subdivisions, and corporate limits.
 - (20) Applicable district boundaries.
 - (21) The proposed layout and width of proposed thoroughfares, arterial, collector and local streets.
 - (22) A general arrangement of land uses, including residential lots, multifamily tracts, commercial development, park and school sites, public facilities, private open space, floodplains and drainageways, and proposed nonresidential and residential densities (net and gross) and building heights.
 - (23) The proposed phasing of development or the order of platting for planning purposes.
- (b) Graphic requirements for a preliminary plat. Preliminary plats which do not include the following data and information will be considered incomplete and may not be accepted by the city. The required copies or prints of the proposed subdivision shall include the following:

- (1) In cases of large developments which would exceed the dimensions of the sheet of 100 feet to the inch scale, preliminary plats may be 200 feet to the inch or a scale approved by the administrative officer. A graphic scale shall be shown on the plat. This is to be determined by administrative staff or the city manager or his designee.
- (2) A vicinity or location map that delineates the location of the proposed subdivision with respect to major thoroughfares, freeways, watercourses and ditches. The vicinity map shall be located in the upper-right hand corner of the drawing.
- (3) The boundary lines, abstract lines, survey lines, corporate boundaries, district boundaries, existing or proposed highway[s] and streets.
- (4) The name and location of all adjoining subdivisions or property owners shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets, alleys and other features that may influence the layout of development of the proposed subdivision. Adjacent unplatted land shall show property lines and owners of record.
- (5) The location and widths of all streets, alleys, railroads, and easements existing or proposed within the subdivision limits.
- (6) Proposed street names are suggested but not required. Street names are required at the time the final plat is approved.
- (7) The location of all property lines, existing lot and block numbers and date recorded, buildings, existing sewer or water mains, gas mains or other underground structures, whether public or private, easements of record or other existing features within the area proposed for subdivision. When appropriate, a separate submittal for utilities may be approved by the administrative officer.
- (8) Proposed arrangements of lots (including lot and block numbers) and proposed use of same. Any nonresidential reserves shall also be shown.
- (9) The title under which the proposed subdivision is to be recorded, the name and complete address of the owner with the name and complete address of the land planner, engineer, or registered professional land surveyor preparing the drawing shall be located in the lower right corner. The subdivision name shall not be duplicated, but phasing identification is allowed. The administrative officer shall determine if the proposed subdivision identification will be in conflict with existing plats.
- (10) Sites, if any, to be reserved or dedicated for parks, playgrounds, schools, or other public uses.
- (11) North arrow, date and other pertinent data oriented to the top of the sheet.
- (12) Contours with intervals of two feet or less shown for the area with elevation on the contour map referenced to the latest U.S.C and G.S. and city data. If no contours exist on-site or immediately adjacent to the site, spot elevations may be used as a substitute for contour lines. Spot elevations shall not be farther apart than 500 feet.
- (13) All physical features of the property to be subdivided including location and size of all

watercourses, 100-year floodplain according to Federal Emergency Management Agency information, the outline of major wooded areas or the location of major specimen trees of 12 inches or greater in diameter, and other features pertinent to subdivision.

(14) All preliminary plats shall be submitted in legible format on a high-quality grade of blue line or black line paper.

(15) Proposed or existing zoning boundaries, if applicable.

(16) Variance request, if applicable. The request and justification shall be provided on the application form provided by the city.

(c) Graphic requirements for final plats. In addition to the graphic requirements for a preliminary plat the final plat shall include the following:

(1) All final plats shall be submitted on sheets no larger than 24 inches by 36 inches and to a scale of not greater than 100 feet to the inch.

(2) The exterior boundary of the subdivision shall be indicated by a distinct bold solid line and corner marked by individual symbols.

(3) The length and bearing of all straight lines, and the radii, arc lengths, chord lengths, tangent length and central angles of all curves shall be indicated along the lines of each lot or in a curve or line table. The curve data pertaining to block or lot boundaries may be placed in a curve table showing curve number, radius, delta, arc length, chord length, and chord bearing.

(4) The names and recording information of all adjoining subdivisions, all abutting lots, lot and block numbers and other recorded information.

(5) Reference ties to courses and distances of at least one recognized land corner shall be shown with a point of beginning.

(6) The names, accurate location and widths of all adjacent streets, watercourses, railroads, alleys, easements, city and utility district boundaries.

(7) Street names shall be shown and shall not duplicate existing street names in the city or the extraterritorial jurisdiction. Extensions of streets shall have the same name as the existing street. Similar spelling or pronunciations should be avoided to prevent confusion.

(8) The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision shall be shown. It shall be the applicant's responsibility to coordinate with appropriate utility companies for placement of utility easements.

(9) In all subdivisions and additions, sufficient permanent monuments shall be established at points to represent or reference boundary corners, angle points, and points of curvature or tangency along all street rights-of-way in the subdivision. Survey monuments shall be an iron rod or pipe not less than five-eighth inches in diameter and 36 inches long. Monuments shall be set flush with the top of the ground

or curb. Each monument set by the surveyor shall include a cap with the surveyor's registration number attached to it.

(10) The final plat shall show a title block in the lower right corner of the sheet. The name of the subdivision, the name, address, and telephone numbers of the subdivider and engineer or surveyor, the scale and location of the subdivision, and reference to original land grant or survey and abstract number shall be indicated. If more than one page is required for the plat the title block may be reduced in size on the subsequent sheets. The vicinity map is required on only one sheet.

(11) An owner's dedication block or acknowledgement shall be attached to and be a part of the final subdivision plat and shall contain a minimum of the information as required by the city. Examples of the information required on the final plat which would meet the above requirements shall be provided by the city.

(12) A statement signed by the owner and acknowledged before a notary public as to the authenticity of the signatures.

(13) Lienholder's certification and notarization.

(14) A signed registered professional land surveyor's certificate and/or a signed professional engineer's certificate.

(15) Plat approval block for the signature of the mayor or mayor pro-tem of the city council and a place for the city secretary/clerk to attest such signature. A plat approval block shall be provided for the planning and zoning commission. The commission chairman or vice-chairman shall sign the plat.

(16) Location(s) of any existing structures to be retained shall be shown on the plat.

(17) Any proposed reserve uses and the property dimensions shall be shown on the map.

(18) Any special restrictions shall be noted on the plat or referenced accordingly or in the general notes. Restrictions included, but are not limited to, wood shingle roofs, garage setbacks and zoning.

(19) General notes shall be included on the final plat as specified by the city. These notes shall appear on the same page with the layout of the subdivision and shall include, but are not limited to the following:

(A) Standard abbreviations;

(B) Finished floor elevations;

(C) Reference to U.S.C. and G.S. benchmark and description and temporary benchmark within 500 feet of the subdivision;

(D) Elevation data;

(E) Flood zone information;

(F) District boundaries;

- (G) Zoning district;
- (H) Location of aerial easements; and
- (I) Building permit note (if applicable).

(2000 Code, sec. 9.202.11)

Sec. 10.03.052 Recordation

Following the approval of the city council, a plat shall follow the following procedures for recordation:

- (1) Within seven business days following the approval of the final plat by the city council, the subdivider shall submit the required number of originals to the city for signatures. The originals shall be on at least three mil camera positive matte finish (both sides) film. All signatures and seals shall be clearly affixed in permanent black ink. All seals shall be affixed in black ink or a raised seal.
- (2) A current title commitment for the specified tract and current tax certificates shall be submitted and verified prior to the city signatures and seals being affixed on the plat.
- (3) If the plat is within the City of Oak Point or its extraterritorial jurisdiction, the subdivider shall record the plat at the county clerk's office of Denton County within five business days of city signatures and seals being affixed on the plat and the requirements set forth herein are met. The subdivider shall be responsible for all fees related to the recordation of the plat. All requirements of applicable ordinances have been met. One recorded original shall be returned to the city.
- (4) The final plat shall not be submitted for recordation until detailed engineering plans have been approved by the City of Oak Point and/or the public improvements are complete. The approval of the plat and construction plans shall be valid for one year following the approval of the plat by city council, after which time they must be reapproved by the city, subject to the then-current requirements.
- (5) Park dedication requirements that are met by monies in lieu of land shall be paid prior to the release of the plat to subdivider for recordation.
- (6) The restrictive covenants shall be provided and the recording information shall be shown in a note on the plat.

(2000 Code, sec. 9.202.12)

State law reference—Recording of plats, V.T.C.A., Property Code, sec. 12.002.

Sec. 10.03.053 Annexation policy

- (a) It is the policy of the City of Oak Point to assess on a case-by-case basis the annexation of area in the extraterritorial jurisdiction (ETJ) when significant developments are proposed, occurring, or likely to occur in the near future.
- (b) The following are guidelines for determining when annexation should be considered:
 - (1) Single-family developments over five lots; or
 - (2) Multifamily, industrial or commercial developments over one acre; or

- (3) Any area where the density exceeds 500 units per square mile; or
 - (4) Any development or area that might have significant impact on the city, including but not limited to service costs, increased traffic, drainage impact, utility needs or utilization, safety or health hazards.
- (c) When any or all of the above conditions exist, commission and city council shall review the proposed development for the purpose of considering annexation. The review shall also include consideration of the annexation of logical planning areas around the area of initial concern.
- (d) Guidelines for scope of study. In studying the questions of whether or not an area should be annexed, the following criteria shall be considered at a minimum:
- (1) The ability of the city to furnish normal city services equal to other comparable areas inside the city limits. Water and sewer system capabilities are considered, but lines for individual areas are normally not the city's financial responsibility.
 - (2) The reliability, capacity, and future public cost, if any, of current and planned provisions for community facilities such as roads, drainage, utilities, etc. Private facilities will be considered.
 - (3) The need and quality of land use and building controls. Private controls will be considered.
 - (4) Impact on the city, both current and long range, including at a minimum:
 - (A) Fiscal cost and benefits.
 - (B) Traffic.
 - (C) Infrastructure of roads, utilities and other community facilities.
 - (D) Safety and health.
 - (E) Building and development quality.
 - (F) Aesthetic quality.
 - (G) Community character.
 - (5) Conformance with or need to ensure conformance with the officially adopted master plan of the city.

(2000 Code, sec. 9.202.13)

Sec. 10.03.054 Annexation procedures

- (a) If, after preliminary study, the criteria described in [section 10.03.053](#) indicate annexation is appropriate in order to promote the public interest, the city will initiate formal annexation proceedings to consider the annexation question in detail in accordance with the city's annexation plan and the provisions of V.T.C.A., Local Government Code section 43.052.
- (b) If a tract of land in the extraterritorial jurisdiction is contiguous to the city limits and the owner of said property desires that it be annexed in order to be qualified to receive city services when available and to be afforded zoning protection, the owner may petition the city for annexation.

(c) Study and annexation procedure.

(1) Based upon guidelines for initiating study, the commission and/or the mayor shall initiate a preliminary assessment of the area for possible annexation and present the results to the city council. The city council will review the study results and other information and make a determination whether or not formal study and public hearings and annexation proceedings should be initiated.

(2) If formal hearings are initiated, the planning and zoning commission shall review the annexation study and make a recommendation to the city council.

(3) The city council will then consider all recommendations and public comment during the prescribed public hearings phase, and make a determination whether or not to initiate formal annexation proceedings.

(4) Formal annexation proceedings are executed, if applicable.

(d) Annexation fees. Any person, firm or corporation who shall petition the city for annexation shall pay the city secretary/city clerk, a fee in an amount determined, and as from time to time amended, by ordinance of the city council. The fee shall be based upon the administrative expenses of the city in reviewing such petitions. A true and correct copy of the current ordinance establishing the fees shall be maintained by the city secretary/city clerk.

(2000 Code, sec. 9.202.14)

State law references—Municipal annexation, V.T.C.A., Local Government Code, ch. 43; municipal annexation plan required; V.T.C.A., Local Government Code, sec. 43.052.

Secs. 10.03.055–10.03.090 Reserved

Division 3. Subdivision Design Requirements

Sec. 10.03.091 Applicability within extraterritorial jurisdiction

All of the provisions of this chapter governing subdivisions and development standards for subdivisions within the city shall also apply to all subdivisions and developments within the city's extraterritorial jurisdiction subject to the exemptions provided under [section 10.03.006](#). (Ordinance 2004-04, sec. 8, adopted 10/20/03)

State law reference—Extension of subdivision rules to extraterritorial jurisdiction, V.T.C.A., Local Government Code, sec. 212.003.

Sec. 10.03.092 Streets

(a) The arrangement, character, extent, width, grade, and location of all streets shall conform to the City of Oak Point Thoroughfare Plan and to the Design Standards Manual, and shall be considered in their relation to existing and planned streets or driveways, to topographical conditions, to public safety and in their appropriate relation to the proposed uses of land to be served by such streets. Unless required by the City of Oak Point, strips of land controlling access to or egress from other property, or to or from any street or alley, or having the effect of restricting or damaging the adjoining property for

subdivision purposes or which will not be taxable or accessible for special improvements shall not be permitted in any subdivision. All streets shall be paved in accordance with the current design standards. All lots, tract, and reserves shall have frontage on an approved public right-of-way or access easement(s).

(b) Primary access through an access easement in a condominium development shall conform to all design and construction standards stated herein and in the current design standards. The easement shall meet all of the requirements set forth for a public street including but not limited to construction standards, width, curves, building lines, sight distance visibility, landscape maintenance, and function but privately maintained. An access agreement between the property owners and lessors shall be submitted to the city for approval and so noted on the plat prior to recordation of the plat. A note shall be placed on the plat defining the accessibility to the access easement by police, fire, emergency vehicles and utility operations and maintenance personnel.

(c) When a street is not on the thoroughfare plan, the arrangement of streets in a subdivision shall:

(1) Provide for the continuation or appropriate protection [projection] of existing streets in surrounding areas; or conform to a plan for the neighborhood approved or adopted by the city to meet a particular situation where topographical or other conditions make a continuance or conformity to existing streets impracticable.

(2) Provide for future access to adjacent vacant areas which will likely develop in the future.

(3) Resolve alignment with existing right-of-way and driveway openings.

(d) Minor residential streets shall be so designed that their use by through traffic will be discouraged.

(e) Geometric street design. Standard for curvature, intersecting streets, and offset intersections are detailed in the design standard of the City of Oak Point.

(f) Street widths. Street right-of-way widths shall be as shown on the thoroughfare plan and shall be designed in accordance with the design standards. Lane widths and median widths shall also be in accordance with the design standards.

(g) Half streets. Half streets shall be prohibited, except when essential to the reasonable development of the subdivision in conforming with the other requirements of these regulations and the thoroughfare plan, and where the city council finds it will be practical to require the dedication of the other one-half when the adjoining property is subdivided. Whenever a partial street previously has been platted along a common property line, the other portion of the street shall be dedicated. Construction of half streets and improvements made to all on-site facilities are defined in the design standards.

(h) Cul-de-sacs. A cul-de-sac is a street having but one outlet and terminated on the opposite end by a vehicular turnaround. The minimum requirements for design and construction are in the design standards.

(i) Dead-end or stub streets. Dead-end or stub streets are temporary in nature and are not allowed

except to provide access to adjacent land areas and in no case shall be more than 250 feet in length or equal to one lot depth. A temporary turnaround shall be provided and indicated on the plat and built in accordance with the design standards.

(j) A one-foot reserve shall be established along the side or end of a street that abuts acreage tracts. A note shall be on the plat to define the one-foot reserve.

(k) New streets. New streets which are an extension of existing streets shall bear the names of the existing streets and shall be dedicated with appropriate transitions and widths.

(l) Street names. No new street names shall be used which will duplicate or be confused with the names of existing streets. All street names shall demonstrate good judgment and character on behalf of the subdivider based upon commonly accepted use of names and places. Street names shall be subject to the approval of the city council at the time of final plat approval.

(m) Streetlights.

(1) Installation of streetlights shall be in accordance with design and specification standards of the city.

(2) The developer shall be responsible for the cost of such street lighting installation and shall pay the appropriate streetlight fee for each light at a total projected cost for a three-year period as per current rates as stated in the appropriate transmission and distribution company's street lighting schedule. The total fee due shall be paid to the city prior to final acceptance of the subdivision. Upon the expiration of three years from the date of the completion of such street lighting installation the city will perform a calculation comparing the actual costs of such street lighting installation to the projected cost collected by the city. In the event that the actual installation cost for each light exceeds the projected cost over the three-year period, the developer shall be responsible for reimbursing the city for the difference between the projected and actual costs. Such reimbursement to the city shall be remitted within 30 calendar days of the city's submission of an invoice to the developer outlining the increased costs. To the extent that projected cost exceeds the actual installation cost, the difference shall be refunded to developer. These fees shall be payable to the city for every subdivision final plat approved by the city council; however, the stated streetlight charges shall not be applicable to any final plat that was approved by the city council before the effective date of this subsection (m).

(3) The payment and collection of the fee established and levied by this subsection shall in no way obligate the city to provide any specific utility service and shall in no way guarantee any specific level or quality of service.

(4) The developer shall install conduit for streetlights and traffic signals in divided thoroughfares as directed by the city engineer.

(2000 Code, sec. 9.203.1)

(n) Construction. All streets dedicated within a subdivision in the city and its extraterritorial jurisdiction

shall be constructed in accordance with paving widths and specifications as set forth in the current design standards of the City of Oak Point at the time at which the application for preliminary plat is filed. (Ordinance 2004-04, sec. 9, adopted 10/20/03)

(o) Safety and visibility. In order to preserve public safety in the City of Oak Point and its ETJ, property owners should not plant nor allow any plant to grow into the public right-of-way and/or easements for same such that they obstruct the view of all or any vehicular and/or pedestrian traffic along or across said right-of-way.

(2000 Code, sec. 9.203.1)

Sec. 10.03.093 Alleys

(a) Alleys shall be allowed in commercial and industrial districts, except that the city council may require that definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with an [and] adequate for the use proposed. Service alleys in commercial and industrial districts shall be a minimum pavement width of 15 feet. An access easement may be substituted upon approval by the administrative officer if the easement is also a fire lane easement.

(b) Residential alleys shall not be required but may be allowed to connect to a subdivision with existing alleys for the purpose of providing continuity on providing parallel secondary access. If alleys are constructed, the construction shall meet the requirements of the design standards.

(c) Dead-end alleys shall be avoided where possible, but, if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as determined by the city council.

(d) Alleys may not exceed a maximum length of 1,400 feet unless otherwise waived by the city council.

(2000 Code, sec. 9.203.2)

Sec. 10.03.094 Easements

(a) All utility easements, including those for water, sewer, storm sewer, and fire lanes, shall be shown on the final plat.

(b) Easements across lots or centered on or adjacent to rear or side lot lines shall be provided for utilities where necessary and shall be of such widths as may be reasonably necessary for the utilities using the same. It shall be the subdivider's responsibility to determine appropriate easement widths as required by the current design standards.

(c) Where a subdivision is traversed by a watercourse, ditch, drainageway, or channel, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with such course and of such additional width as may be designated by the city, subject to determination using proper engineering considerations. Maintenance easements shall also be specified. Approved utilities are permitted within the drainage easement if specified as a drainage and utility easement.

(d) Fire lane easements shall be specified on all multifamily and nonresidential plats and shall conform to the design standards. The design and paving material in the fire lane shall conform to the design standards.

(2000 Code, sec. 9.203.3)

Sec. 10.03.095 Blocks

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

- (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
- (2) Zoning requirements as to lot sizes, setbacks, and dimensions if applicable.
- (3) Needs for convenient access, circulation, control, and safety of street traffic.

(b) Length and widths shall be in conformance with the design standards. In general, intersecting streets, determining the blocks, lengths and widths, shall be provided at such intervals as to serve cross-traffic adequately, and to meet existing streets or customary subdivision practices.

- (1) Minimum block length 500 feet; however, deviation is allowed in cases where physical barriers or property ownership creates conditions where it is appropriate that these standards be varied having due regard for connecting streets, circulation of traffic and public safety.
- (2) Maximum block length 1,200 feet, except where no existing subdivision controls, the block length may increase to 1,400 feet.
- (3) When possible, the block width or depth shall allow two tiers of lots back-to-back except when prevented by the size of the property or the need to back on an arterial street identified. When adjacent to an arterial street, the subdivider may not double front lots.

(c) Blocks shall be numbered consecutively within the overall plat and shall be consistent with adjacent plats.

(2000 Code, sec. 9.203.4)

Sec. 10.03.096 Sidewalks

Pedestrian sidewalks shall be provided in areas of public use, and in certain portions of nonresidential developments as set forth in the current design standards. In general, sidewalks are discouraged in developments where residential density is two units per net acre, or lower. (2000 Code, sec. 9.203.5)

Sec. 10.03.097 Lots/tracts/reserves

Lots, tracts and reserves within the city limits of Oak Point shall conform to the minimum requirements of the established zoning districts. All other lots, tracts and reserves shall conform to the minimum requirements established herein.

- (1) Each residential lot, tract or reserve shall front on a dedicated public street.
- (2) The width of the lot shall be measured at the property line/right-of-way. The width of cul-de-sacs and radial lots shall be measured at the property line using the chord or straight line.

- (3) The depth of the lot shall be measured as an average between the side lot lines from the property line/right-of-way.
- (4) A lot area shall be computed inclusive of all easements. There shall be a minimum buildable area, exclusive of easements, for each lot to meet the requirements set forth herein.
- (5) No lots may be split by any jurisdictional boundary lines.
- (6) Residential lots, tracts or reserves shall conform to the following requirements:
 - (A) Lot widths—Minimum standards.
 - (i) Single-family: Sixty feet.
 - (ii) Cul-de-sac/radial: Forty feet with a minimum width of 60 feet at the front building line.
 - (iii) Patio/zero lot line: Fifty feet.
 - (iv) Townhome: Twenty-five feet.
 - (B) Lot depths—Minimum standards.
 - (i) Single-family: One hundred ten feet.
 - (ii) Cul-de-sac/radial: One hundred ten feet.
 - (iii) Patio homes/zero lot line: One hundred feet.
 - (iv) Townhome: One hundred feet.
 - (C) Lot size—Minimum.
 - (i) Single-family: Seventy-five hundred square feet.
 - (ii) Cul-de-sac/radial: Seventy-five hundred square feet.
 - (iii) Patio homes/zero lot line: Five thousand square feet.
 - (iv) Townhome: Twenty-five hundred feet.
 - (D) Side lot lines should be generally at right angles or radial to the street right-of-way lines.
 - (E) Corner lots shall be ten feet wider adjacent to the street or thoroughfare.
 - (F) Double frontage and reverse frontage lots shall be avoided except when essential to provide separation of residential development from traffic arteries according to the thoroughfare plan or to overcome specific disadvantage to topography and orientation. Where lots have double frontage, a front building line shall be established for each street.
- (7) There shall be a maximum of 100 lots per single point of access into a subdivision or subdivision phase from a collector street (60-foot right-of-way). There shall be a minimum of two points of access for subdivisions in excess of 100 lots. In the case of phased construction, each phase should meet this requirement but in no case shall there be less than one access per 100 platted lots.
- (8) All reserves may be labeled with their proposed use or as unrestricted reserves. Landscape and

detention reserves may also be designated as utility easements. When in the determination of the city council the proposed use is essential to the signage of public facilities, the city council may require the intended use of the reserve to be specified.

(9) Nonresidential and multifamily tract or reserve. All nonresidential and multifamily tracts or reserves shall front a dedicated public street or dedicated access/fire lane easement. The design of all driveways, access easements and fire lanes shall be in conformance with the current design standards.

(2000 Code, sec. 9.203.6)

Sec. 10.03.098 Building lines

Front and street side building lines shall be shown on the final plat on all lots within the City of Oak Point and shall provide at least the minimum setback as required by the zoning ordinance. The following regulations regarding building lines shall not apply to developments within the city's extraterritorial jurisdiction. (Ordinance 2004-04, sec. 10, adopted 10/20/03)

(1) Residential development minimums.

(A) Front building line.

(i) Single-family: Forty feet.

Fifty feet on arterial streets.

(ii) Cul-de-sac: Forty feet. Must be 45 feet on lots less than 50 feet in width.

(iii) Patio/zero lot line: Thirty feet.

(iv) Townhome: Thirty feet.

(v) Corner lots: Shall be ten feet wider adjacent to the street or thoroughfare.

(B) Side building line.

(i) Single-family, interior: Ten feet.

(ii) Patio/zero lot line:

a. Interior: Zero and ten feet.

b. Corner: Twenty feet.

(iii) Townhome:

a. Interior: Zero.

b. Corner: Twenty feet.

(iv) Garages shall be set back a minimum of 25 feet from the property line.

(v) Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries according to the thoroughfare plan or to overcome specific disadvantage to topography and orientation. Where lots have double frontage, a front building line shall be established for each street.

- (C) A 30-foot rear building line is required. It is recommended on property adjacent to lakes or waterways. There is no setback required on the line adjacent to Corps property.
- (D) The transition from a 25-foot to a 40-foot building line shall occur at an angle of 45 degrees.
- (E) The ten-foot side building line may be indicated by note on the plat rather than on each lot line. The 25-foot setback requirement for garages on corner lots may be indicated by note.
- (F) Every part of a required side yard shall be open and unobstructed except for fencing and the ordinary projections of window sills, belt courses, cornices, and other architectural features not to exceed 12 inches into the required side yard, and roof eaves projecting not to exceed 18 inches into the required side yard.
- (G) All garages, accessory buildings and uses shall be located completely within the building lines.
- (2) Nonresidential and multifamily.
- (A) Front building line. The front building line on nonresidential or multifamily reserves shall not be less than 40 feet from the front property line on a public street right-of-way, except that where the reserve faces on a major street, the front building line shall not be less than 50 feet from the front property line.
- (B) Side building line. The side building line on a nonresidential or multifamily reserve shall not be less than 30 feet, except where the side property line abuts or is across a street from a residential lots, the side building line shall not be less than 50 feet from the side property line.
- (C) Rear building line. No rear building line on nonresidential or multifamily reserves shall be required, except where the rear property line abuts or is across the street from residential lots, the rear building line shall not be less than 85 feet, including ten feet of landscape screening, from the rear property line.
- (D) No building exceeding 30 feet in height shall be located closer than 50 feet from any residential area; buildings exceeding 30 feet in height shall set back from the property line not less than one additional foot for every one foot in height in excess of 30 feet and one additional foot for every two feet in height in excess of 45 feet, with a maximum setback requirement of 50 feet provided, however, no building shall be required to be set back a distance greater than 125 feet from the building setback line of an adjacent residential area.

(2000 Code, sec. 9.203.7)

Sec. 10.03.099 Signs

- (a) The following definitions and regulations regarding signage are applicable within the city limits and extend to the extraterritorial jurisdiction of the City of Oak Point, Texas, to the extent allowed by law.
- (b) Definitions.

A-frame sign. A self-supporting "A" shaped sign with two visible sides that is situated on or adjacent to a sidewalk.

Attached sign. Any sign, erected flush against an exterior wall, supported by the wall, and having the sign

face parallel to the wall or painted directly onto a wall. Neon tubing attached directly to a wall surface shall be considered an “attached sign” when forming a border for the subject matter, or when directing attention to the subject matter or when forming letters, logos, or pictorial designs.

Banner. A temporary sign made of cloth, canvas or other light fabric.

Billboard sign. Any pole sign having a face exceeding 60 square feet, and which promotes or advertises commodities or services available at a location other than where the sign is located and shall include those signs whose message is available for lease, rent, or hire.

City manager. The city manager of the City of Oak Point or his/her designee.

Detached/freestanding sign. An on-site sign or three-dimensional representation of a figure or object not attached to any building, supported by uprights or braces or some other approved support which is capable of withstanding the stress from weight and wind load.

Dilapidated or deteriorated condition. Any sign:

- (1) Where elements of the surface or background have portions of the finished material missing, broken or otherwise existing such that they are illegible.
- (2) Where the structural support or frame members are visibly bent, broken, dented, or torn.
- (3) Where the panel is visibly cracked or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition.
- (4) Where the sign, or its elements, are twisted or leaning or at angles other than those at which it was originally erected (such as may result from being blown or the failure of a structural support).
- (5) Where the message or wording can no longer be clearly read.
- (6) Where the sign or its elements are not in compliance with the requirements of the current electrical code and/or the building code of the City of Oak Point.

(2000 Code, sec. 9.203.8)

Electronic government sign. An electronic digital or LED sign whose information content can be changed or altered by manual or electric means and for the use of governmental entities including the City of Oak Point, Denton Independent School District and Little Elm Independent School District for community information, direction or instruction. (Ordinance 2015-03-399 adopted 3/16/15)

Erect. To build, construct, attach, hang, place, suspend, affix or paint a sign(s) on the exterior surface of a building or structure.

Face. The surface of the sign upon, again [against], or through which the message is displayed or illustrated.

Logo. Any design or insignia of a company or product that is commonly used in advertising to identify that company or product.

Monument sign. Any sign mounted to a solid base support at ground level.

Movement control sign. A sign conveying a message which directs vehicular or pedestrian movement onto or within the premises where the sign is located and contains no advertising identification messages.

(2000 Code, sec. 9.203.8)

Nits. A unit of luminous intensity equal to one candela per square meter. (Ordinance 2015-03-399 adopted 3/16/15)

Off-premises sign. A permanent or temporary sign which directs attention to a business or profession conducted, or to a commodity or service sold or offered, off the premises where the sign is located or to which it is affixed.

Person. Any individual, corporation, partnership, association, sole proprietorship, or other business entity.

Pole sign. Any sign which is erected on a vertical framework consisting of one or more uprights supported by the ground.

Political sign. Any sign relating to a political issue, a particular candidate for a partisan or nonpartisan office, or to a political party.

Portable sign. Any sign that is not permanently attached to or affixed to the ground, a building, an object, or other fixed structure. This term specifically includes an advertising display affixed to or installed on a vehicle or other mobile unit, such as a trailer, wheel or skid.

Premises. Any parcel of real property, together with all buildings and structures thereon.

Protective sign. A sign that communicates a message regarding limitations or warnings about the premises (i.e., no trespassing, no soliciting, beware of dog).

Sign. Any device conveying either commercial or noncommercial messages or both commercial and noncommercial messages for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any lawful display of merchandise. The term "sign" shall also mean and include any display of one or more of the following:

- (1) Any letter, numeral, figure, emblem, picture, outline, character, spectacle, delineation, announcement, trademark, logo;
- (2) Multiple-colored bands, stripes, patterns, outlines, or delineations displayed for the purpose of commercial identification; and/or
- (3) Anything specified above in part or in combination by any means whereby the same are made visible from beyond the boundaries of the lot or parcel of property on which the same are displayed for the purpose of attracting attention outdoors to make anything known.

Temporary construction sign. Any on-site temporary sign pertaining to the development of land or

construction of buildings, and/or the identity of a developer or any related party, for such building or land.

Window sign. Any sign, banner, poster, or display located on the internal or external surface of the window of any establishment for the purpose of advertising services, products or sales available within such establishment or which announces the opening of such establishment.

(c) Preservation of rights and violations under existing ordinances. By the passage of the ordinance from which this section is derived, no presently illegal use of signs shall be deemed to have been legalized, and no offense committed, and no liability, penalty or forfeiture, either civil or criminal, incurred prior to the time the ordinance is adopted, shall be discharged or affected by such repeal; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures may be instituted, or causes presently pending proceeded with, in all respects as if such prior ordinance, or portion of such ordinance, had not been repealed.

(d) Permitting requirements.

(1) Permits required. It shall be unlawful to erect, re-erect, construct, alter, or maintain any sign within the corporate limits or extraterritorial jurisdiction of the City of Oak Point except as provided by this section and pursuant to a required permit for the same issued by the city. Except as hereinafter provided, a permit shall be required for each sign. In addition, electrical permits shall be obtained for any authorized lighted or illuminated signs, and building permits shall be obtained for sign structures.

(2) Permits not required. The following signs shall not require a permit but shall be subject to all other requirements of this section even though a permit shall not be required therefor:

- (A) Maintenance and repairs to existing signs for which a valid permit was issued if required at the time of the initial installation;
- (B) Repainting without the alteration of existing signs for which a valid permit was issued if required at the time of initial installation;
- (C) Signs for public safety and convenience or those required for the enforcement of private property rights, such as "Entrance," "Parking," "No Trespassing," or "No Parking" provided not more than one such sign is maintained on each street, courtyard, or alley frontage on each site area and provided such signs do not exceed 150 square inches in area in any residential zone or four square feet in any nonresidential zone;
- (D) Public notice signs, such as notices to remove weeds;
- (E) Political signs not located within a public right-of-way and not exceeding 36 square feet in effective area, eight feet in height or being illuminated or containing moving parts;
- (F) Garage sale or estate sale signs not located within any public rights-of-way;
- (G) Lost pet signs;

(H) Real estate signs not exceeding six square feet in area in nonresidential districts or three square feet in area in residential districts and that otherwise are allowed by this section; and

(I) Address and security protection signs.

(3) Permit applications. Applications for sign permits shall be made in writing upon forms furnished by the city. Such applications shall contain the location of the proposed sign structure by street and number, the name and address of the property owner and the person or business erecting the sign. Plans and specifications showing all pertinent sign information shall be submitted with the permit application. In addition, if the erection of the sign involves electrical wiring or connections, the electrical inspector for the city shall examine the plans and specifications for compliance with the city's electrical code and shall approve or disapprove prior to final approval or disapproval of the permit. The application shall include a provision whereby the owner of the property on which the sign is to be located consents to its erection and agrees to remove the sign and supporting structure in the event the business so identified or whose products or services are thus described has ceased or discontinued use of the building for a period of 90 days or more, and said owner shall sign the application. The plans and specifications shall include the following:

(A) For all signs, two copies of artwork/drawing (to scale) showing the complete elevation of the building on which the sign is to be placed, [and] all exterior dimensions of the structure. Superimposed on this drawing shall be the proposed sign drawn to scale showing the dimension, type and size of lettering and all colors to be used. For signs not located on or attached to a building, the scaled drawing of the sign along with a site plan showing the location of the sign and all current or proposed improvements shall be provided. The drawing shall be drawn to the following scale or as approved by the building official:

(i) A quarter of an inch equals one foot, zero inches ($1/4" = 1'$) for structures up to and including 40 feet in height.

(ii) An eighth of an inch equals one foot, zero inches ($1/8" = 1'$) for structures that exceed 40 feet in height.

(B) Two copies of elevation/building wall or facade showing lineal building wall length and proposed location of sign (applies to wall sign, window signs and temporary banners).

(C) Two site/plot plans and current color photographs showing the facade of the building on which the sign is to be placed, together with all existing signs on the building, and all easements (applies to all signs).

(D) For all signs that are to be illuminated, the drawing shall show the location of electrical outlets, conduits, and lighting sources. The plan shall also indicate the intensity of illumination, which shall not exceed the maximum specified herein, and the building official shall require certification thereof by a lighting consultant or an electrical engineer.

- (E) Two copies of engineered foundation plans that also indicate the method of fastening the sign to the building or anchoring to the ground (applies to ground signs).
- (4) Granting and revocation of permits. The building official, before granting a permit for the erection, construction, reconstruction, repair or alteration of any sign, shall determine that the proposed sign conforms to all applicable laws and regulations, including, without limitation, those with respect to design, construction, location and materials. Any such permit may at any time be revoked should any of the provisions of this section be violated.
- (5) Effect of permits. The granting of a permit shall not be construed to be a permit for, or an approval of, any violation of the provisions of any law or regulation of the city.
- (6) Expiration of permits. All sign permits shall expire and become null and void if the work authorized by such permit is not commenced within 60 days from the date of issuance, or if the work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of more than 120 days. Before any work is recommenced, a new permit shall be obtained.
- (7) Corrections and stopping of work. The granting of a permit shall not prevent the building official from thereafter requiring the correction of errors in the work or from preventing further work being done thereunder when such work is in violation of the provisions of any regulation or law of the city.
- (8) Permit fees.
- (A) A sign permit shall not become valid until the applicant has paid to the city the appropriate fee. There shall be no fee for alterations involving only change in copy, content or color.
- (B) A fee shall not be required for signs for which a permit is not required or for graphics, murals, etchings or stained or painted glass that does not have a name, mark, logo, symbol, or commercial identification attached or associated therewith.
- (C) Whenever a sign for which a permit is required has been installed, replaced or altered without first having obtained a permit, a special investigation consisting of inspection of the site, communication with the owner of the property or business and review of necessary records shall be made before a permit may be issued for such work. An investigation fee, equal to two times the sign permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be in addition to the normal sign permit fee.
- (e) General regulations.
- (1) Prohibited signs. Unless otherwise allowed by the provisions of this section and in accordance with an approved site plan, the following shall be prohibited:
- (A) Portable signs.
- (B) Balloons, streamers, bunting, banners, pole signs or signs containing moving parts, unless of a temporary nature or otherwise specifically authorized by this section.

- (C) Any sign erected in violation of the building or electrical code of the city.
 - (D) Signs attached to or maintained on any tree or public utility pole.
 - (E) Signs attached to or painted on the outside of a fence, railing or wall that is not a structural part of a building.
 - (F) Signs attached or painted on any sidewalk, curb, gutter, or street (with the exception of single-family residential house numbers).
 - (G) Signs illuminated to an intensity to cause glare or brightness to a degree that could constitute a hazard or nuisance.
 - (H) Signs that move, flash light intermittently, change color, or revolve.
 - (I) Off-premise signs.
 - (J) Signs erected in the public right-of-way.
 - (K) Signs attached to a vehicle advertising the sale of the vehicle where the vehicle is parked in such a way that the sign attracts the attention of or informs persons using the public right-of-way unless it is located on one's owned property.
 - (L) Any detached sign not considered a monument sign.
 - (M) Luminous gaseous tubing, except that within an enclosed building, behind glass and visible from outside only through the window.
 - (N) A-framed signs.
 - (O) Billboard signs.
 - (P) Off-premise signs.
 - (Q) No sign may be placed so as to interfere with the sight line of traffic from one location on a public street to another location on the same street, or from one location on a public street or private drive which intersects with a public street to a location on the intersecting public street which is within 150 feet of the intersection.
- (2) In all areas regulated by this section, no sign may be erected using any combination of forms, words, colors, or lights, which imitate standard public traffic regulatory, emergency signs or signals.
 - (3) For non-single-family residential uses, movement control signs may be erected. These signs may be attached to or detached from a structure, but shall not exceed three square feet. Attached signs shall not exceed six inches in height.
 - (4) In all areas regulated by this section, a maximum of two protective signs per acre for each frontage shall be allowed. Each sign shall not exceed two square feet and lettering must not exceed four inches in height. A detached sign shall not exceed two feet in height.
 - (5) No more than two signs, located on-site, for sale or rental of any property may be placed not

closer than ten feet to any property line, provided such sign shall not exceed six square feet for nonresidential or three square feet for residential, nor be illuminated, nor attached to a tree or public utility pole.

(6) No more than one temporary construction sign shall be allowed on any development to identify developments, developers, builders, or financiers; however, one temporary construction sign shall be allowed for each residential builder constructing within a residential subdivision. The sign may include contact information and property cost information. Such temporary construction sign shall not exceed 36 square feet in area. The sign shall be located no closer than 15 feet from any property line and shall not exceed 18 feet in height. Such signs must be removed when construction permits have been issued for 50% of the development.

(7) Temporary lights and other holiday decorations shall be exempt from the provisions of this section.

(8) Flagpoles. Each lot shall have no more than one flagpole without a special use permit. Maximum height of flagpole is not to exceed 20 feet.

(9) Except as otherwise provided herein, all signs located in or within 25 feet of any single-family use shall comply with the following requirements:

(A) No sign shall be illuminated in such a manner as to produce intense glare or direct illumination across any property line.

(B) Signage noting entrance to a subdivision must be either a monument or attached sign placed on a screening or decorative wall. The effective area of such signs shall not exceed 36 square feet.

(10) All signs located within a non-single-family district shall comply with the following requirements and be in accordance with an approved site plan:

(A) All signs shall be consistent with the construction of the structures contained within the district.

(B) Monument signs shall comply with the following requirements:

(i) Monument signs shall be built on a base with no separation between the base of the sign and natural grade. A monument sign shall contain only the name(s), logo(s), address, product or service of the establishment(s). In the case of gasoline service stations, the price of gasoline per gallon may be included on such sign, and shall only be placed on this type of sign. In the case of governmental, homeowners' associations, or nonprofit uses, the sign may contain information of upcoming events. No other advertising or promotional information shall be permitted.

(ii) One monument sign is permitted per site, unless otherwise approved by a special use permit.

(iii) Monument signs shall not exceed 60 square feet in size and shall be no taller than six feet in height. Monument signs shall be no closer than 15 feet from public right-of-way and five feet from any property line not adjacent to public right-of-way.

(11) Attached signs shall comply with the following requirements:

(A) All signs and their words shall be mounted parallel to the building surface to which they are attached and shall project no more than 18 inches from that surface.

(B) Attached signs mounted shall not exceed one square foot per linear foot of building or leasehold frontage or per 300 square feet of gross floor area, whichever is less.

(C) Signs shall not be attached to canopies.

(12) On any one facade of a building, the total area of any window signs shall be limited to ten percent of the total area of all windows located on the facade. The outlining of a window on two or more of any sides with lighting or luminescent gaseous tubing shall constitute the total window area as a sign.

(13) Political signs. In all areas regulated by this section, political signs may be erected or placed no closer than three feet from the edge of a roadway. Such signs shall be removed from public rights-of-way within ten days following the election for which the sign has been placed. In an area regulated by this section on private property where a political sign is located with the consent of the owner of the real property, such political signs shall not have an effective area greater than 36 square feet, nor be greater than eight feet in height, be illuminated, or contain any moving parts, and a maximum size of three square feet on public property.

(2000 Code, sec. 9.203.8)

(14) Electronic government sign.

(A) Shall be set back a minimum of five (5) feet from any property line and shall not be located within a twenty-five (25) foot radius formed by the intersecting right-of-way lines of a corner lot.

(B) The maximum surface/face illumination shall not exceed thirty-two (32) square feet.

(C) The sign must be a monument sign that is mounted to a solid base support at ground level and shall not exceed eight (8) feet in height.

(D) No more than one (1) electronic government sign per lot.

(E) Shall not contain any vulgar messages, corporate logos, commercial advertisement or otherwise draw attention to an individual, business, commodity, service, or product.

(F) Shall not be programmed in a way that suggests or resembles a traffic-control device.

(G) Shall not be programmed in a way that will flash or blink and the image, message or lighting pattern shall hold a minimum of three (3) seconds.

(H) The surface/face illumination shall not exceed one thousand, two hundred fifty (1,250) nits after dusk or seven thousand, five hundred (7,500) nits during daylight hours. All electronic government signs shall be equipped with a sensor and/or timer or other device to automatically adjust to the day/night light intensity levels.

(Ordinance 2015-03-399 adopted 3/16/15)

(f) Violations.

(1) A person is responsible for a violation of this section if the person is: (i) the owner, agent or person(s) having the beneficial use of the sign, (ii) the owner of the land or structure on which the sign is located, or (iii) the person in charge of erecting the sign.

(2) It shall be unlawful for any person to erect, replace, alter, or relocate any sign within the city, or cause the same to be done, except as provided in this section.

(3) It shall be unlawful for any person to install, construct or display a prohibited sign, as defined herein, or any sign in violation of the provisions of this section within the city.

(4) It shall be unlawful for any person to violate any term or provision of this section.

(g) Illegal signs. Illegal signs are those which do not meet the requirements of this article and which have not received nonconforming status.

(h) Nonconforming signs.

(1) Legal nonconforming uses. Subject to the provisions of this section, signs for a legal nonconforming use, as defined in the comprehensive zoning ordinance of the City of Oak Point, are allowed. Such signs shall be allowed only so long as the nonconforming use is allowed. Any such sign legally existing on the effective date of the ordinance from which this section is derived, but which does not comply with the regulations of this section, shall be deemed to be a nonconforming sign under the provisions of this section, and shall be subject to alteration or removal in accordance with the provisions of this section. It is the declared purpose of this section that nonconforming signs will be eliminated.

(2) Moving, relocating, or altering of signs. No nonconforming sign shall be moved, altered, removed and reinstalled, or replaced unless it is brought into compliance with the requirements of this section.

(3) Change in use of structure. Any nonconforming sign may continue to be utilized as long as the occupancy of the use within the structure remains the same. When a use changes from one occupancy category to another, all signs shall be brought into compliance with the provisions of this section.

(4) A sign which has been permitted to remain in place as a nonconforming use shall be removed when the sign, or a substantial part of it, is blown down or otherwise destroyed or dismantled for any purpose other than maintenance operations or for changing the letters, symbols or other material on the sign. For purposes of this section, a sign, or a substantial part of it, is considered to have been destroyed only if the cost of repairing the sign is more than 60 percent of the cost of erecting a new sign of the same type at the same location. No change of sign area will be permitted.

(i) Maintenance of signs.

(1) Maintenance. Each sign shall be maintained in a safe, presentable, and good condition, including the replacement of defective parts and other acts required for the maintenance of such sign, without altering the basic copy, design or structure of the sign. The city manager or her designee shall require compliance or removal of any sign determined by the city manager or her designee to be in violation of

this section in accordance with the enforcement provisions set forth below.

(2) Dilapidated or deteriorated signs. No person shall maintain or permit to be maintained on any premises owned or controlled by him or her any sign that is in a dilapidated or deteriorated condition as defined herein. Upon notice of violation, any such sign shall be promptly removed or repaired by the owner of the sign or the owner of the premises upon which the sign is located in accordance with the enforcement provisions set forth below.

(j) Enforcement.

(1) Authority. The city manager, or his/her designee, is hereby authorized to order the repair or removal of any dilapidated, deteriorated, abandoned, illegal or prohibited signs from property within the city limits or extraterritorial jurisdiction of Oak Point, in accordance with the enforcement mechanisms set forth in this section.

(2) Removal of illegal signs or objects in rights-of-way or otherwise affixed in violation of regulations. Any unauthorized sign or object erected, placed or maintained, in whole or in part, on city right-of-way or otherwise affixed in violation of these regulations may be immediately and without prior notice removed by a DPS officer, building inspector, operations department employee or other code enforcement officer. Signs removed by city officers or employees shall be taken to the DPS building. The officer or employee removing the sign shall immediately attempt to notify the owner of the sign, if such information can be ascertained. In cases where a sign contains the name of a printing firm or political candidate, the officer or employee shall also immediately attempt to notify such firm or candidate of the fact of removal, the location of the sign, and the procedure for retrieving the sign. The owner may be charged with removal costs. Any signs not claimed within 14 days of removal shall be destroyed.

(3) Enforcement procedures for signs not illegally erected in rights-of-way.

(A) Notice of violation. When the city manager, or his/her designee, determines that a sign located within the city limits or extraterritorial jurisdiction of Oak Point is dilapidated, deteriorated, illegal, prohibited or abandoned, and such sign does not fall under subsection (2) above, they shall issue a notice of violation to the owner of the sign or to the owner, occupant or person in control of the property on which the sign is located. The notice of violation shall contain:

- (i) Name of the owner, occupant, manager or other person in control of the property;
- (ii) Street address sufficient to identify the property on which the alleged violation occurred;
- (iii) Description of alleged violation and reference to the section of this section that has been violated;
- (iv) Statement of the action required to correct the violation and a deadline for completing the corrective action;
- (v) Statement that failure to take the corrective action within the time specified may result in (1) a criminal penalty not exceeding \$500.00 per day for each violation, and (2) the city filing a civil action against the owner seeking injunctive relief and/or civil penalties up to \$1,000.00 per day for each

violation;

(vi) Statement informing recipient of their right to appeal the decision of the city manager or his/her designee to the city council in accordance with the procedures established in V.T.C.A., Local Government Code chapter 216.

(B) Service of notice of violation. The city manager or his/her designee shall serve a written notice of violation on the owner of the sign, or the owner, occupant, or person in control of the property on which the sign is located. The notice of violation should be served by either hand-delivery or by certified mail, return receipt requested. Service by certified mail shall be effective three days after the date of mailing.

(4) Nonconforming signs under V.T.C.A., Local Government Code chapter 216, as amended. The city council may order nonconforming signs which (i) are permanently affixed to the ground on the effective date of the ordinance from which this section is derived, and (ii) were erected in conformity with city ordinances in effect at the time of their erection to be removed pursuant and subject to compliance with V.T.C.A., Local Government Code chapter 216, as amended.

(5) Enforcement remedies.

(A) Criminal penalties. Any person, firm or corporation violating any of the provisions or terms of this subsection shall be deemed guilty of a misdemeanor and, upon conviction thereof, be subject to a fine not exceeding \$500.00 for each offense, and each and every day or portion thereof that such violation shall continue shall constitute a separate offense.

(B) Civil remedies. The city may file a civil action in state district court to enforce the requirements of this subsection, seeking injunctive relief and/or civil penalties up to \$1,000.00 per day for each offense as authorized by V.T.C.A., Local Government Code chapter 54, subchapter B, as amended, or any other applicable law.

(C) Emergency removal of sign. The city may remove a sign that the city manager or her designee finds to be an immediate and imminent threat to the public safety because of its dilapidated, deteriorated or structural condition.

(D) Remedies cumulative. All remedies authorized under this subsection are cumulative of all others unless otherwise expressly provided. Accordingly, the filing of a criminal action shall not preclude the pursuit of a civil or administrative action for violation of this article nor shall the filing of a civil action preclude the pursuit of any other action or remedy, administrative or criminal.

(k) Sign control board.

(1) If the City of Oak Point requires the relocation, reconstruction, or removal of a sign within its corporate limits or extraterritorial jurisdiction that is subject to V.T.C.A., Local Government Code ch. 216, as amended, the mayor shall appoint a municipal sign control board which must be composed of:

(A) Two real estate appraisers, each of whom must be a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics,

educational program, and professional certification program;

(B) One person engaged in the sign business in Oak Point;

(C) One employee of the state department of transportation who is familiar with real estate valuations in eminent domain proceedings; and

(D) One architect or landscape architect licensed by the State of Texas.

(2) A member of the board is appointed for a term of two years.

(3) The board shall determine the amount of the compensation to which the owner of a sign that is required to be relocated, reconstructed, or removed is entitled. The determination shall be made after the owner of the sign is given the opportunity for a hearing before the board about the issues involved in the matter.

(4) The city council hereby recognizes and adopts the powers granted to the city by V.T.C.A., Local Government Code ch. 216, as amended, pertaining to the required relocation, reconstruction, or removal of signs within its corporate limits or extraterritorial jurisdiction and subject to such chapter 216.

(5) The city council hereby adopts the procedures outlined in V.T.C.A., Local Government Code ch. 216, as amended, pertaining to the calculation of compensation and the method of compensation applicable to the relocation, reconstruction or removal of signs subject to such chapter 216.

(6) Appeal. Any person aggrieved by a decision of the sign control board may file in state district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed within 20 days after the date the decision is rendered by the board.

(2000 Code, sec. 9.203.8)

State law reference—Authority of municipality to regulate signs, V.T.C.A., Local Government Code, ch. 216.

Sec. 10.03.100 Planned development

(a) A planned development (PD) (also identified as planned development (PD) in the zoning ordinance) promotes the development of a tract of land in a unified manner and may allow for deviation from the development standards in this and other ordinances. Variances to the established criteria for lot widths, lot depths, building lines, [and] location of open space may be considered for approval and recommendation as part of a PD when the following requirements are met:

(1) All single-family residential lots shall front on a public street right-of-way.

(2) Provision of adequate separation between the fronts of buildings.

(3) Lot widths and depths shall be adequate to provide for residential construction in accordance with established building codes.

(4) Building lines shall be established to provide adequate off-street parking for each residential unit.

(5) Provision of compensating open space within the PD.

- (6) Justification of the design of the subdivision.
- (7) A finding that there is no negative impact on health, safety, or welfare in the area.
- (b) A PD may include such developments as follows:
 - (1) Townhomes.
 - (2) Multifamily residential units.
 - (3) Condominiums.
 - (4) Cluster homes.
 - (5) Mixed residential commercial use development.
 - (6) Patio homes/zero lot line homes/single-family homes.
- (c) A PD shall meet all of the other platting requirements of this article.

(2000 Code, sec. 9.203.9)

Sec. 10.03.101 Utility services

- (a) All utility service lines for residential distribution for electricity, telephone, gas, cable television and any other such service shall be underground with the exception of electric major transmission or feeder lines. These lines are identified as three phase lines and shall be located on the perimeter of a subdivision whenever possible, but not along street rights-of-way. It is recommended that commercial developments have an underground feed from the nearest power line for individual service. The standards for easement requirements for utility service lines are stated in the design standards.
- (b) All lots, tracts and reserves shall be served by public utilities, water, wastewater and storm drainage designed, constructed, inspected and accepted in accordance with the requirements set forth in the current design standards.
- (c) All public utilities and improvements shall be designed and installed according to the latest edition of the design standards, comprehensive plan, water and wastewater phasing plan, and any other applicable plans approved for the area by the city, or the utility district's plans, whichever is applicable.

(2000 Code, sec. 9.203.10)

Sec. 10.03.102 Changes or amendments to the design standards

The current design standards will, from time to time require revisions and updates to allow for changing construction technology. The design standards referenced herein shall mean the current standards, as they may be revised from time to time. (2000 Code, sec. 9.203.11)

Secs. 10.03.103–10.03.130 Reserved

Division 4. Park Land and Public Sites

Sec. 10.03.131 Areas for public use

The subdivider shall give consideration to suitable sites for parks, playgrounds, schools, and other

areas of public use so as to conform with the recommendations of the commission and the city council. Any provision for schools, parks, and other public uses, shall be indicated on the preliminary plat. (2000 Code, sec. 9.204.1)

Sec. 10.03.132 Park land dedication

(a) Land dedication. Whenever property within the jurisdiction of the City of Oak Point is subdivided for the development of a residential or commercial area in accordance with the subdivision regulations and planning and zoning ordinances of the city, such plat shall contain a fee simple dedication of an area of land to the city for park purposes, which area shall equal one acre for each 100 proposed dwelling units. The owner/developer shall make a presentation to the development review committee to define the optimum location of the dedication prior to the time of submission of the preliminary plat for approval. Any proposed plat submitted to the city for approval shall show the area proposed to be dedicated under this section.

(1) The city council declares that development of an area smaller than one acre for public park purposes is impractical. Therefore, if fewer than 100 units are proposed by a plat filed for approval, the developer shall be required to pay the applicable cash in lieu of land amount provided by subsection (b), rather than to dedicate any land area. No plat showing a dedication of less than one acre shall be approved, unless the dedication will add on to an existing park area.

(2) In instances where an area of more than one acre is required to be dedicated, the city shall have the right to accept the dedication for approval on the final plat, or to refuse same, after consideration of the recommendation of the planning and zoning commission and the development review committee, and to require payment of cash in lieu of land in the amount provided by subsection (b), if the city determines that sufficient park area is already in the public domain in the area of the proposed development, or if the recreation potential for that zone would be better served by expanding or improving existing parks.

(3) The dedication required by this section shall be made by filing of the final plat or contemporaneously by separate instrument unless additional dedication is required subsequent to the filing of the final plat. If the actual number of completed dwelling units exceed the figure upon which the original dedication was based, such additional dedication shall be required, and shall be made by payment of the cash in lieu of land amount provided by subsection (b), or by the conveyance of an appropriate amount of numbered lots to the city.

(4) Any land dedicated to the city under this section must be suitable for park and recreation uses. The following characteristics of a proposed area are generally unsuitable:

(A) Any area primarily located in the 100-year floodplain.

(B) Any areas of unusual topography or slope which renders same unusable for organized recreational activities.

The above characteristics of a park land dedication area may be ground for refusal of any preliminary

plat.

(b) Cash in lieu of land.

(1) The dedication requirement of this section shall be met by the dedication of land to the city. If all or a portion of this land is determined to not be in the best interest of the city, the city may require a payment of money in lieu of land, or part land and part money. This will be determined by the city council after considering city staff, development review committee and planning and zoning commission recommendations. The dedication requirement shall be met by a payment in lieu of land at a fee set from time to time by the city council, sufficient to acquire land, develop park facilities, and provide for adjacent streets and utilities for a park. Unless changed by the city council, such fee shall be computed on the basis of \$500.00 per (single-family or per unit of multifamily units) residential dwelling unit or a fee of \$300.00 for commercial developments.

(2) The city may, from time to time, decide to purchase land for parks in or near the area of actual or potential development or expand or improve existing parks. If the city does require cash in lieu of land to purchase park land or expand or improve existing parks, subsequent park land dedication for that area shall be in cash only unless otherwise permitted by the city council.

(c) Fees paid under this article shall be deposited into a fund of the city known as the "city park dedication fund."

(d) Any funds paid in lieu of land must be expended by the city within ten years from the date received by the city for the acquisition and development of a parks and recreation area. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the owners of the property on the last day of such period shall be entitled to a pro rata refund of such fees. The owner of such property must request such refund within one year of entitlement in writing or such right shall be barred.

(e) Any and all private amenities, improvements, and open space, as well as property dedications may be credited either as an offset against dedication or payment of fees as determined by the city council.

(f) Additional requirements; definitions.

(1) Each park must have ready access to a public street, and sidewalks shall be continued and constructed throughout any dedicated park site.

(2) Unless provided otherwise herein, an action by the city shall be by the city council, after consideration of the recommendations of the planning and zoning commission and the development review committee.

(3) In determining the allowable density which may be constructed on a tract of land, the gross acreage after any reductions for park land dedication shall determine the allowable number of dwelling units which may be constructed on the remaining property.

(4) Each development adjacent to a hike and bike trail shall be responsible for construction of such trail in accordance with city specifications, in addition to compliance with all other park dedication requirements.

(5) The developer shall be responsible for the removal of all trash, dead trees and debris, including blockages within creeks or tributaries or other obtrusive items, within the proposed site to be dedicated pursuant to this section. Prior to meeting with the development review committee, the developer shall meet with the city manager or his/her designee and agree upon the degree of cleanup required for the site. In the event of a dispute regarding the cleanup required, the decision of the city council shall be final.

(2000 Code, sec. 9.204.2)

Sec. 10.03.133 School sites

School sites for public schools shall be coordinated with the appropriate school district within whose jurisdiction the plat lies. (2000 Code, sec. 9.204.3)

Sec. 10.03.134 Public facilities

Public facilities such as fire stations, libraries, municipal and county buildings, municipal utility districts, or special utility districts operations shall be platted individually or contained within a plat. The location of these facilities shall be coordinated with the comprehensive plan of the City of Oak Point. (2000 Code, sec. 9.204.4)

Sec. 10.03.135 Wetlands

If there are any areas previously designated which constitute wetlands by the federal law, these areas shall be indicated on the plat. In addition, any restrictions on these areas shall be noted on the plat. (2000 Code, sec. 9.204.5)

Sec. 10.03.136 Homeowners' association

(a) Applicability. When a subdivision contains either common open space or other improvements which are not intended to be dedicated to the City of Oak Point for public use, a homeowners' association shall be created, and the duties and responsibilities shall be established in a declaration consistent with state and other appropriate laws, must be submitted to the city council, and made a part of the final plat documents.

(b) Membership. A homeowners' association shall be an incorporated nonprofit organization operating under recorded land declarations through which:

(1) Each lot owner in a described land area is automatically a member; and

(2) Each lot is automatically subject to a charge for a proportionate share of the expenses for the homeowners' association's activities, such as maintenance of common open spaces or the provision and upkeep of common recreational facilities.

(c) Legal requirements. In order to assure the establishment of a permanent homeowners' association, including its financing, and the rights and responsibilities of the homeowners in relation to the use,

management and ownership of common property, the subdivision plat, dedication documents, covenants, and other recorded legal agreements must:

- (1) Legally create an automatic membership, nonprofit homeowners' association;
 - (2) Place title to the common property in the homeowners' association, or give definite assurance that it automatically will be so placed within a reasonable, definite time;
 - (3) Appropriately limit the uses of the common property;
 - (4) Give each lot owner the right to the use and enjoyment of the common property;
 - (5) Place responsibility for operation and maintenance of the common property in the homeowners' association;
 - (6) Place an association charge on each lot in a manner which will both assure sufficient association funds, and provide adequate safeguards for the lot owners against undesirable high charges;
 - (7) Give each lot owner voting rights in the association; and
 - (8) Must identify land area within the association's jurisdiction including but not limited to the following:
 - (A) Property to be transferred to public agencies;
 - (B) The individual residential lots;
 - (C) The common properties to be transferred by the developer to the homeowners' association; and
 - (D) Other parcels.
- (d) Protective covenants. Protective covenants shall be developed which, among other things, shall make the homeowners' association responsible for:
- (1) The maintenance and operation of all common property;
 - (2) The enforcement of all covenants;
 - (3) The administration of architectural controls; and
 - (4) Certain specified exterior maintenance of exterior improvements of individual properties.

(2000 Code, sec. 9.204.6)

Secs. 10.03.137–10.03.170 Reserved

Division 5. Improvements and Acceptance of Subdivision

Sec. 10.03.171 Improvements

(a) The requirements of these subdivision regulations as set forth below are designed and intended to ensure that for all subdivisions of land within the scope of these subdivision regulations all improvements as required herein are installed in a timely manner in order that:

- (1) The city can provide for the orderly and economical extension of public facilities and services; and

- (2) All purchasers of property within the subdivision shall have a usable buildable parcel of land; and
- (3) All required improvements are constructed in accordance with city standards.
- (b) The public improvements required by the City of Oak Point for the acceptance of the subdivision by the city shall include, but are not limited to the following:
 - (1) Water and wastewater facilities;
 - (2) Drainage facilities, including stormwater control;
 - (3) Streets;
 - (4) Streetlights;
 - (5) Street signs;
 - (6) Sidewalks, as applicable in this article;
 - (7) Traffic-control devices required as part of the project; and
 - (8) Appurtenances to the above, and any other public facilities required as part of the proposed subdivision.

All aspects of the design and implementation of public improvements shall comply with the current design standards and any other applicable city codes and ordinances, including preparation and submittal of construction plans and construction inspection.

- (c) Prior to the final approval of construction of the streets and utilities, monumentation for the subdivision shall be in place for the perimeter, right-of-way corners, angle points, and points of curvature using an iron pipe or rod of not less than five-eighths inch in diameter and 36 inches long and set six inches below finished grade. Plat boundary corners shall be set and shall include a cap or tag with the surveyor's registration number. Acceptance by the city shall be contingent upon proper documentation. All lot corner monuments shall be set prior to the issuance of a building permit or the beginning of principal building construction. The lot corner monuments shall be iron rods not less than one-half inch in diameter and 24 inches in length.
- (d) The final approval of construction and acceptance of the improvements in a subdivision shall be in accordance with the guidelines established in the current design standards.
- (e) Building permit statement to be recorded on plat. The city shall not issue any permits for construction within the subdivision, within the corporate limits, except permits to construct public improvements, until such time as all public improvements of the subdivision have been constructed and accepted by the city or a certified check, performance bond or letter of credit is provided to and accepted by the city. A notation stating the above shall appear on each final plat.
- (f) Guarantee of public improvements. Before considering the final plat of a subdivision located all or partially within the city and/or the city's extraterritorial jurisdiction, the city council must be satisfied that all public improvements required will be constructed in accordance with the design standards

requirements. The subdivider shall, unless the city council has determined otherwise, guarantee these public improvements will be constructed in one of the following ways:

- (1) Deposit a certified check with, and payable to, the city in an amount equal to the cost to complete such public improvements, including the cost of remaining engineering and inspection services.
- (2) Furnish the city with a performance bond executed by a surety company authorized to do business in the State of Texas in an amount equal to the cost to complete such public improvements. The performance bond shall be subject to the approval of the city attorney and must be executed by a corporate surety in conformance to V.T.C.A., Government Code ch. 2253; or
- (3) The subdivider shall furnish the city with a letter of credit by an acceptable financial institution to the city in a form approved by the city attorney, guaranteeing the payment of an amount equal to the cost to complete such public improvements. The letter of credit shall be irrevocable and shall be for a term sufficient to cover the 12-month period plus an additional 30 calendar days and require only that the city present the issuer a letter signed by an authorized representative of the city certifying to the city's right to draw or collect funds under the specific terms of the letter of credit.
- (4) As an alternate to providing one of the above financial securities, the following may occur.
 - (A) Upon approval of the final plat by the city council and prior to it being signed by the chairman and secretary of the commission and the mayor and city secretary/clerk of the City of Oak Point, and before said final plat shall be allowed to be recorded in the plat records of Denton County, Texas, the subdivider requesting final plat approval shall, within the time period for which the final plat has been approved by the city, construct all improvements as required by these subdivision regulations and provide a surety instrument guaranteeing their maintenance as required herein. In the event that all public improvements have not been constructed at the time the subdivider requests plat recordation, the subdivider shall provide a financial security as described in paragraph (1), (2), or (3), above in the amount of the improvements not previously constructed. Prior to city council granting this specific approval, the subdivider must request in a letter to the city that the plat will not be recorded on the deed records of Denton County until such public improvements are constructed or otherwise guaranteed.
 - (B) In all instances this original copy of the final plat without benefit of required signatures of city officials shall be held in escrow by the administrative officer and shall not be released for any purpose until such time as the conditions of the approval are complied with.
 - (C) Upon the requirements of this section being satisfied, the final plat shall be considered fully approved, [and] except as otherwise provided for in these regulations, the original copy of the final plat shall be signed by the appropriate city officials. The administrative officer shall cause the final plat to be [recorded] in the plat records of Denton County, Texas; or forward to Denton County for final approval and recordation.

In the event that a performance bond or a letter of credit is the method selected by the subdivider for guaranteeing such improvements, such document shall be subject to the condition that the public

improvements will be completed within 12 months after approval of the final plat by the city council, unless a longer time shall be approved by the city council, upon the determination that such longer time period would not be unreasonable. In the event that the required public improvements guaranteed by such performance bond and/or such letter of credit are not or will not be completed within the time specified by the city council, the city council shall have the authority to extend the time period within which the subdivider shall complete the public improvements, subject to the extension of the expiration date of the approval of the plat, performance bond or letter of credit.

(g) Security.

(1) Waiver of security. The city council may waive all or a portion of the security requirements of this section if it finds that the public health, safety and general welfare will not be harmed by such waiver. The council shall take into consideration the extent of public improvements to be installed, and the likelihood that such improvements will be installed by the subdivider within the 12-month period, the impact, that may result, is such improvements are not timely installed, and the hardship to the subdivider if the security requirements are imposed.

(2) Release of security. As portions of the public improvements are completed in accordance with the design standards, the subdivider may make application to the administrative officer to reduce the amount of the original letter of credit, performance bond or certified check. If the city council is satisfied that such portion of the public improvements has been completed in accordance with city standards, said city council may cause the amount of the letter of credit, performance bond or certified check to be reduced by such amount that the council deems appropriate, so that the remaining amount of the letter of credit, performance bond or certified check adequately insures the completion of the remaining public improvements.

(3) Determination of account. A professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of engineering and construction of all required improvements to the administrative officer who shall review the estimates in order to determine the adequacy of the guarantee instrument for insuring the construction of the required facilities.

(4) Coordination with Denton County. If the project is located in the extraterritorial jurisdiction and is subject to the county bonding requirements, the subdivider may provide the financial security conforming to the above requirements in the name of Denton County, provided that the security will not be reduced or released without written approval by the administrative officer, and provided that the instrument is transferable from the county to the city upon annexation.

(h) Approval of final plats shall be deemed to have expired in subdivisions for which no assurances for completion have been posted or the improvements have not been completed within the period of one year. In those cases where a surety instrument has been required and improvements have not been completed within the terms of said surety instrument, the city shall declare the surety to be in default and require that all the improvements be installed, unless extended under the provisions of this

section.

(i) The city shall inspect all required improvements to insure compliance with city requirements and approved construction plans. When all required improvements have been satisfactorily completed, or shall issue a punch list to the developer denoting items remaining to be completed [sic]. The city shall not accept dedications of required improvements nor release or reduce a performance bond or other assurance, until such time as it determines that:

- (1) All improvements have been satisfactorily completed; and
- (2) The required number of “as built” plans have been submitted to and accepted by the city; and
- (3) The required maintenance guarantee has been provided; and
- (4) Any and all other requirements identified in this article or other city codes and ordinances have been satisfied.

(j) Maintenance bond required.

(1) Before the release of any surety instrument guaranteeing the construction of required subdivision improvements or the signing of the final plat where subdivision improvements were made prior to the filing of the final plat for recordation the subdivider shall furnish the City, if in the city limits, for [or] Denton County, if in the extraterritorial jurisdiction, with a maintenance bond or other surety instrument to assure the quality of materials and workmanship, and maintenance of all required improvements. The maintenance bond or other surety instrument shall be satisfactory to the city attorney as to form, sufficiency, and manner of execution. Said bond shall be in compliance with the design standards.

(2) Whenever a defect or failure of any required improvement occurs within the period of coverage, the city may require that new maintenance bond or surety instrument be posted for a period of one full calendar year sufficient to cover the corrected defect or failure.

(2000 Code, sec. 9.205.1)

Sec. 10.03.172 Flood damage prevention

The lowest elevation of the first floor for all principal buildings is to be constructed at least one foot above the 100-year floodplain. All public streets are to be designed such that the lowest top of curb elevation is equal to or above the 100-year floodplain elevation. In lieu of the above, the developer may provide documentation to show that the lowest public street top of curb elevation is not exceeded by the 100-year floodplain elevation more than four hours. The 100-year floodplain is considered to be the 100-year water surface elevation in the outfall channel or receiving stream designated to receive storm runoff from the proposed development. For levied areas subject to multiple outlet condition analyses conforming to the Denton County criteria, the aforementioned requirement is to be met for all conditions. Special consideration may be given to tracts containing natural aesthetic amenities within existing developed areas and served by existing outfall drainage facilities, where the addition of fill would result in the destruction of those amenities, and for which there is not other feasible method to meet the

aforementioned criteria. (2000 Code, sec. 9.205.2)

Sec. 10.03.173 Stormwater control

(a) Drainage requirements and design standards.

(1) Compliance. All developments shall provide the drainage facilities and improvements to serve the development in accordance with the requirements and design standards of this section.

(2) Purpose. The standards and requirements of this section are adopted for the following purposes:

(A) To protect human, life, health and property;

(B) To minimize the expenditure of public monies for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business interruptions;

(E) To minimize damage to public facilities and utilities located in floodplains;

(F) To provide for the sound use and development of all areas in such a manner as to [minimize future flood blight areas;]

(G) To retain natural floodplains in a condition that minimizes interference with floodwater conveyance, floodwater storage, aquatic and terrestrial ecosystems, and groundwater and surface water;

(H) To minimize erosion and sedimentation problems and enhance water quality; and

(I) To minimize future operational and maintenance expenses.

(3) Definitions. The words defined in the drainage manual (Denton Drainage Design Manual as adopted and from time to time amended) shall apply to any word used in this section which is not otherwise defined.

(4) General drainage requirements. General requirements for drainage shall include the following:

(A) Drainage improvements required. All developments shall provide for any new drainage facilities, the improvement of any existing drainage facilities, channel improvements or grading, driveway adjustments, culvert improvements or any other improvement, drainage facility or work which is necessary to provide for the stormwater drainage needs of the development, in accordance with the requirements and design standards of this section, including but not limited to any drainage facilities, improvements or other work which is necessary to:

(i) Provide for the conveyance of all stormwater from the development when fully developed to an adequate discharge point;

(ii) Fulfill any purpose for which the requirements of this section are imposed;

(iii) Adequately protect the development from flooding, including the effects of the 100-year flood;

- (iv) Properly control any increase in the upstream or downstream stage, concentration or water surface elevation caused by the development;
- (v) Provide for the conveyance of existing storm drainage flowing through the development.
- (B) Off-site drainage. Off-site drainage facilities and improvements shall be provided by the development whenever additional stormwater runoff from the development would adversely affect any off-site property or would overload an existing drainage facility, whether natural or man-made. Where stormwater runoff from three or more acres has been collected or concentrated to one point, it shall not be discharged onto adjacent properties, except into existing creeks, channels or storm drains, unless drainage or flowage easements are obtained for those properties. If the developer cannot obtain the necessary easements to make required off-site drainage improvements, upon the request of the developer after compliance with the provisions of this article, the city may bring condemnation proceedings to obtain the off-site drainage easements.
- (C) Permeable (greenbelt) area stormwater control. Any development may provide for stormwater runoff by reserving a sufficient amount of land within the development for landscaping, green space or other permeable areas, excluding detention facilities, if sufficient to alleviate the need for particular drainage facilities or improvements. The city engineer may require the submission of any drainage computations necessary to determine that the permeable areas reserved are adequate in size, design or location so as not to require particular drainage facilities or improvements. If a plat is approved on that basis, the permeable areas proposed to be reserved shall be shown on the plat or otherwise referenced by the plat, in the manner specified by the city engineer. No buildings, structures or other impermeable improvements shall be constructed or installed in the permeable areas so designated on the final plat.
- (D) Detention facilities. Detention facilities may be used to reduce peak discharges where conditions prevent conveying stormwater to an adequate discharge point or studies show that off-site structural facilities will not mitigate hydraulic effects more efficiently. All detention facilities shall comply with the design criteria of this section. A development may provide for drainage by participating in the design and construction of a regional detention facility. Detailed engineering studies of the entire basin shall be required to ensure that the timing of peak flows has not been altered to create higher peak flow elsewhere in the basin. Detention facilities may be constructed in phases, if phased so as to provide for the timely needs of the development.
- (E) Floodplains. Where the regulations of this section would require a development to make any drainage improvements in, or adjacent to a floodplain in order to provide for the ultimate base flood, the development may, in lieu of making the required improvements, restrict development in the area that would be subject to flooding by the ultimate base flood because of the failure to provide for the drainage improvements. In such cases the area to be left undeveloped shall be dedicated to the public as a drainage easement on the final plat.
- (F) Floodway fringe areas. Where any development would fill a floodway fringe area where the

floodway has not been designated on the flood hazard boundary map, the necessary engineering studies to show the limits of the floodway shall be submitted. If the floodway fringe area is not proposed to be filled, the areas within the floodplain which will be necessary to provide for the drainage needs of the development shall be dedicated to the public as a drainage easement on the final plat.

(G) Floodways and improvements.

(i) Generally, floodways serving drainage areas larger than one square mile in area and which are still functioning primarily in a natural and adequate state shall not be altered or improved to provide for the drainage needs of a development, unless there is no other reasonable means or method to provide for such drainage.

(ii) As part of the required improvements, all debris, small brush, vines and other obstructions shall be cleared once from that portion of any channel located within or on the perimeter of the development, as directed by the city engineer, prior to the connection of any utilities for any building within a development. A development may also be required to provide clearing of off-site floodways to the extent necessary to adequately receive or convey stormwater runoff from the development, based on the roughness coefficient approved during the design process for the final plat.

(iii) Developments discharging stormwater runoff into a floodway shall provide supplemental vegetation, on-site and off-site, when necessary to preserve or restore any disruption to the natural state. The vegetation planted shall be coastal Bermuda grass or similar vegetation proposed by the developer and approved by the city engineer. The vegetation requirement shall apply to any portion of any floodway, on-site or off-site, which would be affected by runoff from the development.

(iv) Any approvals necessary for completion or occupancy of the development may be withheld, including utility connections and certificates of occupancy, unless and until the clearance and vegetation requirements for floodways are satisfied.

(H) Site erosion control. To minimize erosion resulting from the removal of vegetation and to reduce the introduction of erosion materials into the storm drainage systems, all developments and any person undertaking any development activity shall make use of erosion and sediment control devices in accordance with the recommendations of the drainage manual, as directed by the city engineer. The erosion and sediment control devices shall be installed and thereafter maintained until sufficient vegetation cover has been provided or been replaced to control erosion and sediment, as directed by the city engineer.

(I) Payment in lieu of improvements. Any development required to provide drainage facilities or improvements in accordance with this article may elect to pay to the city the total construction cost of the required facilities or improvements, excluding engineering and design cost, when:

(i) The city's approved capital improvement plan proposes to provide, within two years of the date the required improvements are to be undertaken, for the same or similar drainage improvements that would make the drainage improvements required by the development unnecessary; and

(ii) Failure to provide the drainage improvements at the time of development would not adversely affect the development of any off-site properties, as determined by the city engineer.

The payment allowed in this subsection shall be made prior to beginning any construction of the development. If the money paid to the city is not used for the required improvements within five years of payment, the funds shall be returned to the person making the payment.

(5) General design standards. General design standards shall be as follows:

(A) Drainage manual adopted. The City of Denton Drainage Design Criteria, a copy of which is on file with the city engineer and city secretary, is adopted by reference as a part of the regulations and standards of this article. In addition to meeting the requirements expressly set out in this article, all drainage systems shall comply with the design standards and requirements contained in the latest edition of the drainage criteria adopted by ordinance. Where there is any conflict between a provision set forth in this article and a provision of the drainage criteria, the provision of this article shall apply.

(B) Drainage computation data. Design standards for drainage facilities and improvements shall be based on hydraulic and hydrologic computation data submitted and approved by the city engineer prior to submission of the final plat to the planning and zoning commission. The city engineer may specify the form and manner in which the necessary data is to be submitted.

(C) Separation of stormwater and sanitary sewerage systems. Stormwater and sanitary sewerage systems are intended to be used and maintained as separate systems. Drainage facilities shall be designed so as not to connect, direct or allow stormwater, whether by pool backwash or otherwise, into the sanitary sewerage system.

(D) Street access crossing channels. No development shall be designed to access a public street across a channel without providing adequate clearance for the channel under design storm conditions as required by the drainage manual. Bridges crossing channels serving drainage areas greater than one square mile in area shall have one foot of freeboard between the design water surface and the lowest beam of the bridge. Bridges crossing channels serving drainage areas less than one square mile in area shall have one foot of freeboard between the design water surface and the lowest top of road elevation of the bridge.

(E) Channel requirements. Channel regulations and improvement requirements shall be based on the amount and concentration of the stormwater runoff from the development. All developments shall provide for the permanent improvement and modification of existing drainage channels as necessary to serve the development, subject to and in accordance with the following:

(i) Channels which serve as floodways serving drainage basins larger than one square mile shall be maintained in a natural state as provided for in this section. Undeveloped branches of natural channels and creeks of local drainage systems may be allowed to remain in a natural state if maintenance and hydraulic considerations do not require improvements.

- (ii) Channels of local drainage systems serving a development shall be fully lined with concrete to a level at least one foot above the water surface from the 25-year frequency storm.
 - (iii) If a development provides for the reservation of permeable areas as provided for in this section so that a fully lined channel is not necessary to adequately convey stormwater runoff, the channel shall be provided with a concrete pilot channel meeting the specifications of the drainage manual.
 - (iv) The minimum grade allowed on an outfall channel or ditch shall be three-tenths foot per 100 feet for concrete lined channels and five-tenths foot per 100 feet for grass-lined channels.
 - (v) Improved channels shall have one foot of freeboard above the 100-year flood.
 - (vi) The design for all open channels shall be based on geotechnical investigations, unless determined to be unnecessary by the city engineer.
- (F) Channel access roads and ramps. Any development which makes use of any channel within or on the perimeter of the development to provide for stormwater runoff may be required to provide adequate access roads and ramps for the channel for maintenance purposes as follows:
- (i) For all channels serving drainage basins larger than one square mile, access ramps shall be provided where the channel intersects any public roadway.
 - (ii) For all improved, unlined channels serving basins less than one square mile, access to channels shall be provided by one of the following methods, as approved by the city engineer:
 - a. By constructing a flexible base road or equivalent;
 - b. By providing a combination of the bottom access and an access road on one side of the channel, if the depth of the channel will allow maintenance from the access road.
 - c. For channels exceeding a depth of four feet and four-to-one side slopes, an access road shall be provided on both sides of the channel where none of the other methods would be sufficient to provide for maintenance of the channel.
 - (iii) To ensure adequate access, all lined and pilot channels shall have a minimum bottom width of ten feet and shall be provided with access ramps located as directed by the city engineer. Access ramps shall not be less than 12 feet wide, with a minimum cross grade of six to one. All access roads shall be located within a dedicated easement of the size required by this section.
- (G) Major drainage systems. Major drainage systems are intended to provide for conveyance of major flooding and usually consist of channels, detention reservoirs, street rights-of-way and overflow swales. Major drainage systems shall be designed to convey the 100-year flood and may be planned as an integral, usable part of a development.
- (H) Minor drainage systems. Minor drainage systems are intended to provide for conveyance of nuisance-type flooding and usually consist of streets, storm drain inlets and pipes.
- (I) Maximum and minimum times of concentration. Drainage systems for all developments shall be

designed so as to comply with the minimum and maximum time of concentration for the proposed land use, as specified in the drainage manual. In cases where it is evident, as determined by the city engineer, that the actual time of concentration is less than the minimum specified in the drainage manual, a shorter time of concentration may be required.

(J) Tailwater considerations. Proposed storm drains may discharge into existing watercourses shown on the current flood insurance rate map. The tailwater elevation used in hydraulic calculations of the proposed drain system shall consider the water surface elevation of the watercourse for the same design frequency as the storm drain system. All storm drainage systems shall be designed in reference to the watercourse flood elevation at the time the storm drainage discharges into the watercourse, except when the watercourse into which the storm drain discharges is located outside zone X of the flood insurance rate map, the tailwater elevation of the proposed storm drain system shall be the water surface elevation of the watercourse when its peak discharge occurs.

(K) Lot drainage. Generally, each lot shall be designed or graded to direct stormwater into an abutting street, alley, channel or inlet. If drainage is provided in the rear of any lot by an alley or closed storm drainage system consisting of inlets and pipes, the alley or drainage system shall be designed for the 100-year flood. Where it is not practical to provide abutting drainage facilities for each lot, drainage facilities shall generally be required whenever the stormwater runoff from more than two lots used for one- or two-family dwellings is directed across a third residential lot or whenever the facilities are necessary to avoid an adverse effect on any other lot. It shall be unlawful for any person to fill, modify or otherwise obstruct any public drainage easement designed or used as an overflow channel or structure.

(L) Design criteria. Design criteria shall be as follows:

(i) Design flood frequencies. The following listed facilities shall be designed to handle the flood frequencies indicated:

<u>Facility</u>	<u>Flood Frequency</u> <u>(years)</u>
Street capacity and enclosed pipe system, if needed	25
Driveway culverts and roadside ditches	25
Street right-of-way	100
Improved channels	100
Culverts	100

Bridges 100

Floodways 100

(ii) Street drainage requirements.

- a. All streets shall be capable of conveying a 100-year flood without water exceeding the right-of-way limits.
- b. Street crowns shall be reduced for approximately 100 feet on each side of valleys, and only one valley crossing for each street shall be used at an intersection.

(iii) Pipe system requirements if used.

- a. Storm drain systems capable of conveying the 25[-year] frequency flood are required when water spread and intersection cross flow limits are exceeded. Closed pipe systems shall be required for discharges up to and including the equivalent flow of a 48-inch pipe, unless the grade of the natural ground is less than 0.5 percent, then an enclosed pipe system shall be required for discharges up to and including 100 cfs.
- b. The minimum velocity with the pipe flowing full shall be three feet per second.
- c. The minimum storm drain pipe diameter shall be 18 inches.
- d. Pipe diameters shall not normally decrease downstream.
- e. Pipe soffits at changes in pipe sizes should be set at the same elevation.
- f. Vertical curves in the conduit will not be permitted, and horizontal curves will be permitted only with the approval of the city engineer.
- g. Manholes shall be placed at the connection of two or more laterals, at pipe junctions having pipe sizes greater than 24 inches, at alignment changes and at the beginning of the storm drain system.

Maximum manhole spacing shall be as follows:

<u>Pipe Size (inches)</u>	<u>Maximum Spacing (feet)</u>
18 - 36	600
42 - 60	1,000
Larger than 60	No limit

(iv) Driveway culverts. All driveway culvert construction shall be inspected by the city during construction and shall meet the following requirements:

- a. Culverts shall be of sufficient size to carry the expected water flow based on the 25-year flood, be

made of approved classes of reinforced concrete pipe (RCP) or corrugated metal pipe (CMP), and shall be joined together properly by materials approved by the city engineer.

b. The safety standards for ends to driveway culverts adopted by the state department of transportation, as amended, on file in the office of the city engineer, are hereby adopted by reference to the following extent:

1. Culverts of 21 inches in size or larger shall have six to one safety end sections. The ground around the end section shall have a grade of six to one.

2. Culverts less than 21 inches in size shall have type B end sections (state department of transportation drawing). Type B headwalls and guardrails may be used for pipes larger than 21 inches, when approved by the city engineer.

3. Culverts of 30 inches or less do not require safety pipe runners. Culverts above 30 inches shall meet state department of transportation standards.

(v) Detention ponds. All detention ponds shall be in compliance with any applicable design requirements of any state or federal laws or regulations, as amended, including the regulations of the state commission on environmental quality or its successor agency. The following requirements and design standards shall apply to detention ponds to the extent they do not conflict with any applicable federal or state laws or regulations, as amended:

a. The 100-year flood shall be used to determine the volume of detention storage required. Detention facilities shall be designed so that any additional runoff generated by the proposed development will not increase the amount of original discharge for storm frequencies from the five-year to the 100-year flood.

b. The modified rational method shall be used to construct runoff hydrographs for detention storage design when the contributing drainage area is 200 acres or less. The procedures outlined in Soil Conservation Service Technical Release No. 20 (TR-20) or in the U.S. Corps of Engineers' Flood Hydrograph Package (BEC-1) shall be used to determine runoff hydrographs for detention storage design when the contributing drainage area exceeds 200 acres. The city engineer may approve the use of other methods for runoff hydrographs when appropriate.

c. An emergency spillway or overflow area shall be provided at the maximum 100-year pool level and shall be capable of conveying discharges as required by the regulations of the state commission on environmental quality or its successor agency. The spillway shall be constructed of concrete, unless alternative materials are approved by the city engineer.

d. Any outflow structure which conveys water through the embankment in a conduit shall be reinforced concrete designed to support the external loads. The conduit shall withstand the internal hydraulic pressure without leakage under full external load or settlement and must convey water at the design velocity without damage to the interior surface of the conduit.

e. The outflow structure of a detention basin discharging water into any natural stream or unlined

channel shall discharge at a non-erosive rate, unless approved erosion protection is provided in accordance with the drainage manual.

f. Detention basins resulting from excavation shall provide positive drainage in accordance with the drainage manual. The side grade for any excavated detention basin, which is not in rock, shall not exceed four to one.

g. Earthen embankments used for water impoundments must be constructed according to specifications for fill material and be designed based upon geotechnical investigations of the site. The minimum crown width of the embankment shall be 12 feet.

h. Detention basins shall be designed with adequate ingress and egress to allow for regular maintenance, including periodic de-silting and debris removal. Detention basins designed for permanent water storage must include de-watering facilities to allow for maintenance. Detention basins designed to serve drainage areas of 320 acres or more must include a de-silting basin in the upstream pool area.

i. Security fencing of a minimum height of six feet shall encompass the detention storage area if the velocity, depth or slopes create a potentially dangerous condition. The fence shall be designed so as to allow access for maintenance and so as not to restrict stormwater flow into or out of the detention basin.

(6) Easements. In addition to any other provisions of this article relating to easements for public improvements, the following requirements for easements for public drainage improvements, channels and facilities required for any development by this section shall apply:

(A) All public drainage systems and facilities which are not to be included within an existing or proposed public street right-of-way shall be located within easements to be dedicated to the city and shall have adequate access to a public street. Prior to acceptance of any public drainage facilities, all easements within which the facilities are located shall be cleared of all buildings, structures, fences or other obstacles that would interfere with access to the easements.

(B) Easements for closed drainage systems shall meet the following minimum standards, unless special circumstances warrant additional or reduced easements, as determined by the city engineer:

<u>Pipe Size (in inches)</u>	<u>Minimum Easement Width (in feet)</u>
36 and under	15
42 through 54	20
60 through 66	25
72 and above	30

(C) Where an access road is required adjacent to a channel, an easement of a minimum width of 15 feet shall be provided.

(D) Utilities shall not be located within any existing drainage easement, unless it is also designated for utility use. No utilities shall be located in any lined channel in such a way as to interfere with maintenance of or access to the channel.

(E) A drainage easement shall be provided for the area within a required outfall channel or ditch to the point where the flow line “day lights” on natural grade.

(F) To provide for maintenance, a drainage easement shall be provided at least 25 feet beyond any outfall headwall.

(7) Flood damage prevention. All developments regulated by this article shall be designed to prevent flood damage and shall meet the following requirements:

(A) Minimum finished floor elevation. Minimum finished floor elevations for proposed development areas shall be twenty-four (24) inches above the 100-year flood elevation based on encroached stream conditions as contained in the appropriate flood insurance study. If a 100-year water surface elevation for encroached stream conditions has not been determined by a flood insurance study, the finished floor elevations in the development area shall be 24 inches above the 100-year flood elevation based on ultimate watershed development conditions.

(B) Floodway and floodplain modification and permitting. No land shall be modified in any floodplain or floodway until the drainage modification plans have been reviewed and a permit issued by the city engineer in accordance with this article.

(2000 Code, sec. 9.205.3)

Secs. 10.03.174–10.03.200 Reserved

Division 6. Miscellaneous Requirements

Sec. 10.03.201 Form and slab surveys

(a) The city shall require the submittal of a form survey and subsequent slab survey for every structure in the city and the extraterritorial jurisdiction. The surveys shall be prepared by a registered professional surveyor. Copies of the survey will be filed within the city, logged in to the appropriate record system and returned to the builder for his records.

(b) Noncompliance of the submittal of the required surveys is a violation of this article.

(2000 Code, sec. 9.206.2)

Sec. 10.03.202 Map update

The developer shall submit to the city a reduced copy of the entire subdivision at a scale appropriate to update the city maps and subdivision map. (2000 Code, sec. 9.206.3)

Sec. 10.03.203 Schedule of fees

- (a) Fees and charges for filing of preliminary plats, final plats, replats, and foundation permits shall be as established by separate ordinance of the city council from time to time.
- (b) Such fees and charges shall be collected by the city when any plan [or] subdivision plat is tendered to the commission. Such fees and charges shall be paid in advance.
- (c) Such fees and charges shall be imposed on all preliminary plats, final plats and replats, etc. regardless of the action taken by the commission and city council thereon. Such fees shall be collected for the purpose of defraying the costs of administrative, clerical and inspection services necessary to properly investigate plats, replats, and subdivisions.
- (d) Any required fees, unless specifically stated otherwise, shall be paid prior to the recording of the plat.

(2000 Code, sec. 9.206.4)

Sec. 10.03.204 Enforcement

Any subdivision of land being developed in violation of the terms and provisions of these regulations is hereby declared to be a public nuisance and the city manager or his designee is hereby authorized to institute any action which may be necessary to restrain or abate such violations. (2000 Code, sec. 9.206.5)

Sec. 10.03.205 Variances

- (a) The commission shall review the variance request and make a recommendation to the city council. The city council may then authorize a variance from these regulations when in its opinion undue hardship will result from requiring strict compliance. The applicant shall have the responsibility of proving the variance is a hardship. In granting a variance, the city council shall prescribe conditions that it deems necessary or desirable to the public interest and making the findings hereinbelow required to eliminate the hardship. The city council shall take into account the nature of the proposed use of land involved and existing uses of the land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No variance will be granted unless the city council finds that an undue hardship exists. The following conditions must be present for consideration:
 - (1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.
 - (2) The granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.
 - (3) The granting of the variance will not have the effect of preventing the orderly subdivision of other lands in the area in accordance with the provisions of this article.
 - (4) A more appropriate design solution exists which is not currently allowed in this article.
- (b) Such recommendations of the commission and findings of the city council, together with the

specific facts on which such findings are based, shall be incorporated in the official minutes of the commission and the city council meetings at which such variance is recommended or granted.

Variances may be granted only when in harmony with the general purpose and intent of this article, so that the public health, safety and welfare may be secured and substantial justice done. Economic hardship to the subdivider, standing alone, shall not be deemed to constitute undue hardship. The city council may reach a conclusion that a hardship exists if it finds that:

- (1) If the applicant complies strictly with the provisions of this article, he can make no reasonable use of his property.
 - (2) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public.
 - (3) The hardship relates to the applicant's land, rather than personal circumstances.
 - (4) The hardship is unique to the property, rather than one shared by many surrounding properties.
 - (5) The hardship is not the result of the applicant's own actions.
- (c) In granting variance, the city may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.
- (d) A variance may be issued for an indefinite duration or for a specified duration only.
- (e) The nature of the variance and any conditions attached to it shall be entered on the application and plat, and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this article.
- (f) The city council shall not authorize a variance that would constitute a violation of any other valid ordinance of the city.
- (g) The request for a variance shall be made in writing and accompanied by a fee as set forth in the city's [fee schedule](#).

(2000 Code, sec. 9.206.6)

Secs. 10.03.206–10.03.230 Reserved

Division 7. Tree Preservation

Sec. 10.03.231 Purpose and intent

(a) The purpose of these regulations is to promote the preservation of mature trees and natural areas, tree stands, including, but not limited to, remnants of the Cross Timbers Forest and existing tree canopy, to protect trees during construction, to facilitate site design and construction that contribute to the long-term viability of existing trees which improves environmental conditions, specifically to comply with air and water quality regulations, to increase property values and to develop a process to control the removal of trees. It is the further purpose of this division to achieve the following broader objectives:

- (1) Preserve the country atmosphere and natural environment that define the community character of the city and make it a unique and desirable community.
- (2) Prevent untimely and indiscriminate removal or destruction of trees.
- (3) Maintain and enhance a positive image of the city for the attraction of new residents and business enterprises to the city.
- (4) Protect healthy protected/historic and protected/quality trees and promote the ecological, environmental and aesthetic values of the city.
- (5) Preserve protected/historic trees.
- (6) Provide for shade, windbreaks and the cooling of air; thereby, reducing the requirements for air conditioning and heating and the utilization of scarce energy resources.
- (7) Promote site planning that is sensitive to the location of existing trees in an effort to save protected/historic and protected/quality trees.
- (8) Provide for a permitting and enforcement procedure.
- (9) Provide for open space and more efficient drainage of land; thereby, reducing the effects of soil erosion and the need for additional drainage facilities.
- (10) Mitigate the ill effects of rapid and intense urbanization.

(b) The removal of any protected/historic or protected/quality trees as defined in this division requires a tree removal permit in accordance with the terms and provisions of this division. The terms and provisions of this division allow trees located within necessary public rights-of-way, easements and the buildable area of a building lot or site where the lot or site is less than one acre in size to be removed without a tree removal permit and prior to the issuance of a building permit. It is provided, however, that where a building lot or site is one acre in size or larger, then no protected/historic or protected/quality trees shall be removed from the buildable area of the lot or site before the issuance of a building permit relating to the lot or site, unless otherwise permitted herein.

(2000 Code, sec. 9.207.1)

Sec. 10.03.232 Definitions

For the purpose of this division, the following terms, phrases, words and their derivations shall have the meaning given herein:

Agricultural use. The use of land to produce plant or animal products, such as the growing of crops, raising and pasturing of livestock or farming. It does not include the processing of plant or animal products after harvesting or the production of timber or forest products. Agricultural use is not determined by the zoning classification of the land.

Buildable area. That portion of a building site exclusive of the required yard areas on which a structure or building improvements may be erected and including the actual structure and driveway.

Building pad. The actual foundation area of a building area and the area within eight feet of the foundation that is used for construction and grade transition.

Clear-cutting. The removal of all of the trees or a significant majority of the trees within an area.

Clearing and grading, limits of. The boundaries of that area of land identified in the clearing and grading plan, site plan or landscape plan subject to soil disturbance, clearing of trees, and other vegetation in conjunction with a proposed development or land use.

Conservation easement. A non-possessory interest held by a governmental body empowered to hold an interest in real property under the laws of the State of Texas or the United States; other qualified entity, pursuant to section 170(h) of the Internal Revenue Code, as amended; or a charitable corporation, charitable association, or charitable trust in real property that imposes limitations or affirmative obligations designed to:

- (1) Retain or protect natural, scenic, or open-space values of real property or assure its availability for agricultural, forest, recreational, or open-space use;
- (2) Protect natural resources;
- (3) Maintain or enhance air or water quality; or
- (4) Preserve the protected/historical, architectural, archeological, or cultural aspects of real property.

Critical root zone (CRZ). The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the drip line (see [section 10.03.247](#), exhibit D).

Cut/fill. Areas where the natural ground level has been excavated (cut) or fill brought in.

Development review committee. As defined in [section 10.03.003](#) of the Code of Ordinances, as may be amended from time to time.

Diameter at breast height (dbh). The tree trunk diameter measured in inches at a height of four and one-half feet above existing ground level.

- (1) For single-trunk trees, the width shall be measured at four and one-half feet above existing ground level.
- (2) For multi-trunk trees, combine the diameter of the largest stem or trunk with one-half of the diameter of each additional stem or trunk, all measured at four and one-half feet above ground level.

Drip line. A vertical line run through the outermost portion of the canopy of a tree and extended to the ground (see [section 10.03.247](#), exhibit D).

Homestead property. An individual residential property that has been declared as a homestead in accordance with Texas state law.

Limits of construction. Delineation on a graphic exhibit that shows the boundary of the area within which all construction activity will occur.

Municipal/public domain property. Property that is owned by the city or property in which the city has a legal or equitable ownership interest. Examples of this would include city hall, rights-of-way, easements, trails, public parks, county property, school district property, Corps of Engineers property, State of Texas rights-of-way, library, fire stations, water tower sites, or similar properties.

Pad site. The location of the proposed or actual footprint of a primary building as shown on a grading plan, site plan or plot plan.

Protective fencing. Temporary chain-link fence, wire fence, orange vinyl construction fence, snow fencing or other similar fencing with a minimum four-foot height.

Root pruning. To cut away, remove, cut off or cut back all or parts of the root. All root pruning shall be in accordance with approved methods set forth in the National Arborist Association Standards.

Selective thinning. The removal of selected trees from within a densely forested area.

Tree. Any self-supporting woody perennial plant that will attain a trunk diameter of two inches or more when measured at a point four and one-half feet above ground level and normally an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches. It may appear to have several stems or trunks as in several varieties of oaks.

Tree board. For all matters relating to this division, the planning and zoning commission shall perform as the tree board.

Tree, healthy. A tree that is vigorously growing and is free of structural problems such as hollows or voids, free of disease, or insect problems and has a root system that is large enough to support its above-ground mass.

Tree, marginal. A tree that is not listed as a protected/quality tree within this division and is not required to be preserved in accordance with this division.

Tree mitigation plan. A plan that requires replacement or payment of funds into a tree mitigation fund for those areas/trees that are subject to tree protection.

Tree, park. Trees in public parks and all areas owned by the city to which the public has free access to as a park.

Tree, protected/historic.

- (1) A healthy tree or tree stand that stands at a place where an event of protected/historic significance occurred that had local, regional, or national importance; or at the home of a citizen who is famous on a local, regional, or national basis.
- (2) A tree or tree stand that has taken on a legendary stature to the community; is mentioned in literature or documents of protected/historic value; or is considered unusual due to size, age or has landmark status.
- (3) A tree or tree stand that has been designated by the city council, after due notice to the owner of

the tree and public hearing, as a tree or tree stand of notable interest and value to the city because of its location or historical association with the community. A listing and map of all designated protected/historic trees shall be maintained and updated by the city manager or his/her designee and made available to the public upon request.

(4) A tree listed as a protected/historic tree on exhibit A herein.

Tree, protected/quality. A tree that is listed within this division in [section 10.03.247](#) and has a diameter of six inches or greater measured at four and one-half feet above ground; an understory tree that has a diameter of two inches or greater measured at 18 inches above ground. For a multi-trunk tree, the diameter shall be the total diameter of the largest trunk plus half the diameter of each additional trunk (see [section 10.03.247](#), exhibit E).

Tree protection, permanent. Structural measures, such as retaining walls/wells or aeration devices, that are designed to protect the tree and its root systems throughout its lifetime.

Tree protection sign. A sign furnished by the City of Oak Point upon approval of a tree survey or tree removal permit that describes prohibited conduct detrimental to trees.

Tree protection, temporary. Physical barriers installed prior to any clearing and grading activity and construction for the purpose of preventing damage to existing trees and understory vegetation and set outside of the root zone of such vegetation for the life of the development's construction.

Tree removal. An act or activity that causes or may be reasonably expected to cause a tree to be removed, damaged, cut, injured or destroyed including, but not limited to, uprooting, severing the main trunk, damaging the root system, and excessive pruning.

Tree stand. Contiguous trees whose canopies are generally clustered together.

Tree, street. Trees located adjacent to streets within the rights-of-way or within landscaping easements.

Tree survey. A survey of protected/quality trees indicating size, type and location of trees, done by a professional land surveyor, civil engineer, landscape architect or arborist.

Tree topping. The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown so as to remove the normal canopy and disfigure the tree.

Tree, understory. A tree that does not typically attain great size, and grows underneath the canopy of much larger trees (see [section 10.03.247](#), exhibit A).

Visibility triangle area. A triangular area on a lot at the intersection of two streets, two sides of which are lot lines measured from the corner intersection of the lot lines for a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines or intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection.

(2000 Code, sec. 9.207.2)

Sec. 10.03.233 Applicability

(a) Unless exempt under subsection (c) below, this division shall apply to:

(1) Undeveloped land.

(2) All property to be redeveloped including additions or alterations, but not including interior alterations or exterior alterations that do not change the footprint of the building and that do not require the removal of trees.

(3) Rights-of-way, streets, parks, and other public property under the jurisdiction of the City of Oak Point and other governmental entities.

(b) To the extent there is a conflict between this division and any other ordinance or regulation of the city, the more stringent requirement that preserves the largest quantity of trees shall apply.

(c) Exceptions. A tree removal permit shall not be issued and tree protection and replacement requirements shall not be required under any of the following conditions. The burden of proof as a qualified exception is upon the remover of a tree.

(1) New developments that have an administratively complete application on file for a final or preliminary plat for a single-family residential development or a building permit, whichever is applicable, as of the effective date of this division.

(2) Any development for which construction has begun on infrastructure improvements pursuant to an approved development agreement, including roads, as of the effective date of this division. In the event that construction of all infrastructure improvements in such a development ceases for a continuous period of 180 days or longer, this exemption shall cease to apply on the 181st day after cessation of construction unless the city accepts the infrastructure improvements.

(3) Property on which a single-family or two-family residential dwelling unit(s) exists as of the effective date of this division.

(4) Trees located in the visibility triangle area.

(5) Any tree that has disrupted a public utility service due to a tornado, storm, flood or other act of God. Removal shall be limited to the portion of the tree reasonably necessary to re-establish and maintain reliable utility service.

(6) Any tree that is diseased, damaged beyond the point of recovery, or in danger of falling as determined by the development review committee prior to the removal of the tree. The removal of a diseased tree by the city or an individual is required to reduce the chance of spreading the disease to adjacent healthy trees.

(7) Any tree determined to be causing a danger or be in hazardous condition as a result of a natural event such as a tornado, storm, flood or other act of God or that endangers the public health, welfare or safety and requires immediate removal.

(8) Clearing of understory trees necessary to perform soil borings, boundary surveying of real

property or to conduct tree surveys or inventories as long as the clearing for surveying shall not exceed a width of two feet for general survey (i.e. of easement boundary, etc.) and eight feet for survey of property boundary lines and any tree having a ten-inch dbh or greater shall not be removed under this exemption during such boundary or general surveying.

(9) Capital improvement projects awarded prior to the effective date of this division.

(2000 Code, sec. 9.207.3)

Sec. 10.03.234 Permit required

(a) The clear-cutting of land as defined in this division is prohibited, and all permits for tree removal shall be subject to this division (see [section 10.03.247](#), exhibit B).

(b) A tree removal permit is required for all non-single-family residential lots.

(c) No person, directly, or indirectly, shall cut down, destroy, remove or move, or intentionally destroy or damage any protected/quality tree without first obtaining a tree removal permit and complying with the requirements of this division.

(d) No grading or tree removal shall take place on any undeveloped property subject to this division without obtaining a tree removal permit.

(e) No heavy equipment shall be moved onto a site prior to all applicable permits being issued.

(f) All trees not listed as a protected/historic or protected/quality tree within this division may be removed with a permit.

(g) Selective thinning, when done in a professionally acceptable manner, shall be allowed as a single permit upon approval of the development review committee. Approval will only be granted when it is determined that the selective thinning is being done in a manner that would enhance the environment and likelihood of survival for the remaining trees.

(h) Where protected/quality tree removal is allowed through exemption or by a tree removal permit and the root system is intertwined with protected/quality trees that are intended to be saved, the tree shall be removed by flush cutting with the natural level of the surrounding ground. Where stump removal is also desired, stump grinding shall be allowed, or upon approval of the city, a trench may be cut between the two trees sufficient to cut the roots near the tree to be removed, thereby allowing removal of the remaining stump without destruction of the root system of the saved tree(s).

(2000 Code, sec. 9.207.9)

Sec. 10.03.235 Preservation

The following shall apply unless an application for relief is filed and approved under [section 10.03.238](#):

(1) Any tree or tree stand designated as a protected/historic tree shall be preserved.

(2) Any tree designated as a protected/quality tree shall be preserved unless mitigated under the requirements of [section 10.03.240](#) below.

(3) A notation shall be placed on the site plan or final plat identifying each protected/quality tree and each protected/historic tree required to be preserved under this section. The notation shall limit any future unauthorized land-disturbing activity or construction that would impact and/or damage the tree(s) to be preserved or protected.

(2000 Code, sec. 9.207.10)

Sec. 10.03.236 Requirements for new developments

All projects/developments that have not submitted final plat/construction plans, site plan or building permit, whichever is applicable, as of the effective date of this division shall be subject to the requirements for tree protection and replacement specified herein. Approval of development plans for compliance with this division may be by city council, planning and zoning commission, development review committee, or city staff, whichever is applicable by city regulations.

(1) Single-family residential subdivision developments.

(A) A developer shall submit a tree survey showing all protected/historic and protected/quality trees as defined in this division and an aerial photo of the property showing tree coverage. An overlay of the proposed development showing all improvements including rights-of-way, easements, lot patterns, etc., shall be superimposed on the tree survey. This document shall be provided with the submittal of a concept plan for zoning, development plan, zoning exhibit, preliminary plat, or final plat, whichever occurs first. Any subsequent changes to the plans shall be accompanied by a revised tree survey showing the changes/revisions. The tree survey, aerial photo and plan overlay shall be to the scale of a minimum of one inch equals 100 feet (1" = 100'). If the scale is impractical for the project, alternatives may be considered by the development review committee.

(B) The requirement of a tree survey may be appealed to the tree board. If sufficient information is provided to review the various provisions of this division and the board determines that a tree survey is not necessary, this requirement may be waived by the board. The tree board shall make the final decision on whether a tree survey is necessary for a development.

(C) The development review committee may recommend a revised lot layout following the review of the tree survey. All trees within street rights-of-way, utility or drainage easements as shown on an approved final plat/construction plans as approved by the city may be removed following the execution of a development agreement and approval of a tree protection plan by the city manager or his/her designee and shall be exempt from the tree protection and replacement requirements specified herein. All other tree removal activity shall be in conjunction with a building permit for individual lots and shall conform to the requirements of this division.

(D) The developer may request from the development review committee to perform lot grading and pad site preparation following the clearing of rights-of-way and easements and prior to the issuance of building permit(s). In order for the development review committee to consider the request for pad site grading in advance of issuance of a building permit, a tree survey as defined in subsection (A), and a

tree removal plan shall be submitted. The tree removal plan shall reflect the areas for proposed tree removal necessary to provide for a finished pad site and a minimum finished floor elevation of the slab. For purposes of initial tree removal, the maximum area of proposed pad site for residential lots as shown on a grading plan shall not exceed 150 percent of the minimum dwelling unit allowed in the zoning district. The development review committee may also grant permission for trees in other areas such as proposed ponds, amenity center, etc., to be removed at the time of right-of-way clearing. The decision of the tree board on granting the request for advance lot grading shall be final.

(2) Non-single-family residential development.

(A) A tree survey showing all protected/historic and protected/quality trees as defined in this division, an aerial photo of the property showing tree coverage, and all proposed improvements shall be submitted with an application for zoning, platting, or site plan as appropriate.

(B) A tree removal permit is required for all non-single-family residential developments and may be obtained in conjunction with a building permit or as a separate permit.

(C) Street, alley and mews trees shall be counted towards tree replacement requirements hereunder.

(D) All trees planted as treescapes or lawn ornamentation shall be credited 1:1 to the developer or builder as an offset for any additional trees allowed to be removed hereunder and that fall under this division.

(E) Preserved tree stands of five acres or more shall be placed within a conservation easement. The conservation easement shall be located on the preliminary plat, final plat, site plan, and overlay district plan as may be required under the 720 Corridor overlay district regulations. The property located within the easement shall be maintained by a special district, if any, property owner or other body as approved by the city manager or his/her designee.

(3) Requirements for agricultural property. The owner of property being actively used for agricultural purposes shall be permitted to remove up to seven protected trees per calendar year with a permit. It is not the intent of this division to prohibit the clearing of land to be for a legitimate, agricultural use. The property owner shall request from the city manager to make an on-site inspection of the property to be cleared and provide the city with the purpose and reason for the clearing. If the city manager or his/her designee determines the clearing of land to be for a legitimate, agricultural reason, the city will issue a tree removal permit. The decision of the city manager may be appealed to the tree board.

(4) Requirements for municipal/public domain property, rights-of-way and easements.

(A) All construction and maintenance activities within municipal/public domain property, rights-of-way or easements by the city, county, school districts, state or other governmental entity, franchise utility companies, cable providers, telecommunication providers or other entities shall be subject to the requirements for tree protection and replacement specified herein.

(B) A tree removal permit shall not be required and trees may be removed within the public right-of-

way and utility easements by an appropriate representative of a party listed under subsection (4)(A). However, no construction or maintenance activity shall begin until construction plans showing protected trees to be removed and the limit of construction activity have been approved by the city manager or his/her designee.

(C) The city shall administer a plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees in municipal/public domain property.

(D) A list of trees acceptable for planting along streets, within parks or other public areas or for replacement and mitigation is contained in [section 10.03.247](#), exhibit I. Trees other than those listed as acceptable may be planted only upon approval of the development review committee.

(E) The city shall have the right to plant, prune, and maintain street trees and park trees within the municipal/public domain property as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public properties. The city may remove or cause or order to be removed any tree or part thereof that is in an unsafe condition, or that by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or which is affected with any injurious fungus, insect or other pest.

(2000 Code, sec. 9.207.11)

Sec. 10.03.237 Permit review and approval process

(a) Authority for review. An application for a tree removal permit shall be submitted to the building official for building permit purposes or city manager for infrastructure improvements, grading or drainage purposes, whichever is applicable during the construction process (see [section 10.03.247](#), exhibit B).

(b) The development review committee shall be responsible for the review and approval of all requests for tree removal permits submitted in accordance with the requirements specified herein.

(c) The development review committee may defer the approval of a tree removal permit to the tree board for any reason. The decision of the tree board shall be final.

(d) Any decision made by the development review committee may be appealed to the tree board. The decisions of the tree board shall be final.

(e) The city shall establish administrative procedures necessary to facilitate the implementation and enforcement of this division.

(f) A request for a tree removal permit must be submitted and approved prior to the removal of any protected tree in the city unless the tree is exempt under a provision of this division.

(g) All tree removal permits shall be accompanied by a payment made to the city in the amount specified in the city's fee schedule contained in this code.

(h) An aerial photo of the property showing tree coverage and a tree survey of all protected/historic and protected/quality trees shall be submitted with any tree removal permit as determined by the development review committee and must include the items referenced in this division and its

appendices.

(i) Permits for tree removal issued in connection with a building permit or site plan shall be valid for the period of that building permit's or site plan's validity. Permit(s) for tree removal not issued in connection with a building permit or a site plan shall become void 180 days after the issue date on the permit. Upon expiration, a new permit shall be required.

(j) The development review committee or the tree board shall grant a tree removal permit based on the following criteria:

- (1) Whether or not a reasonable accommodation or alternative solution can be made to accomplish the desired activity without the removal of the tree;
- (2) The cost of preserving the tree as a factor of the project's cost;
- (3) Whether the tree is worthy of preservation;
- (4) The effect of the removal on erosion, soil moisture, retention, flow of surface waters, and drainage systems;
- (5) The need for buffering of residential areas from the noise, glare, and visual effects of nonresidential uses;
- (6) Whether the tree interferes with a utility service;
- (7) Whether the proposed tree replacement pursuant to the tree replacement requirements hereof adequately mitigates the removal of the tree; and
- (8) Any other factors deemed to be in the interest of preserving or protecting the health, safety and welfare of the City of Oak Point and its citizens.

(2000 Code, sec. 9.207.12)

Sec. 10.03.238 Tree preservation relief provisions

(a) The purpose of this provision is to allow a determination of whether the application of the regulations of this division as applied to a tree removal permit application and related development applications would, if not modified or other relief granted, may unreasonably burden the development of the property.

(b) An applicant may request relief from all or a part of the requirements of this division if application of such requirements would, if not modified or other relief granted, unreasonably burden the development of the property. Such request must be made at the time that a tree removal permit would be requested hereunder.

(c) Criteria for approval. In deciding whether to grant relief to the applicant, the development review committee, planning and zoning commission and city council shall consider whether there is any evidence from which it can reasonably conclude that the application of all or a part of the provisions of this division may deprive the applicant of all economically viable use of the property, based on the

following factors:

- (1) Whether there is a unique physical circumstance on the property.
- (2) Whether the proposed design has minimized the loss of trees to the extent possible.
- (3) Whether preservation and/or mitigation unduly burdens the development of the property.
- (d) The decision of the city council is a final determination.

(2000 Code, sec. 9.207.18)

Sec. 10.03.239 Incentives for tree preservation

(a) Parking spaces. For every 12 dbh of protected/quality tree(s) that have been protected on-site, beyond the minimum requirements, one parking space may be added to or subtracted from the required number of parking spaces up to a 15 percent increase or decrease. Upon the approval of the development review committee, a waiver of up to 30 percent may be granted.

(b) Parking lot design. The development review committee may allow parking lot design and parking lot landscaping requirements to vary from adopted standards to preserve existing trees.

(c) Subdivision design. The following incentives may be approved by the development review committee and tree board and must be commensurate with the quality and character of the trees to be preserved:

- (1) Block length may be increased up to 25 percent.
- (2) Cul-de-sac length may be increased up to 25 percent.
- (3) Alternative sidewalk locations.
- (4) Offset street location within a right-of-way.

(d) Other incentives. The employment of the following incentives must be approved by city council and must be commensurate with the quality and character of the trees to be placed within a conservation easement or otherwise conserved and the extent to which the preserved land contributes to the preservation of the remnants of the Cross Timbers Forest. Incentives may include, but are not limited to:

- (1) Fee waivers or credits;
- (2) Reduced park land dedication requirements;
- (3) Tax abatements;
- (4) Tax increment financing;
- (5) Chapter 380 grant of money;
- (6) Transfer of development rights; and/or
- (7) Purchase of development rights - purchase by government or trust.

(2000 Code, sec. 9.207.19)

Sec. 10.03.240 Tree replacement requirements

(a) In the event that it is necessary to remove a protected tree as specified in this division, the party removing the tree shall be required to submit a mitigation plan to replace the protected trees being removed with replacement trees as authorized in [section 10.03.247](#), exhibit I. The mitigation plan shall provide for a 1:1 caliper inch ratio of protected/quality trees removed on a property. Tree replacement may take place on the same lot that tree removal took place or within the development that tree removal took place. A deposit of a minimum of \$100.00 per caliper inch shall be made into a tree mitigation fund if the above options are not feasible, and money in lieu of planting is approved by the tree board. A sufficient number of trees shall be planted to equal or exceed the diameter (measured at 4.5 feet) above ground level of each tree removed. This mitigative measure is not meant to supplant good site planning. Tree replacement will be considered only after all design alternatives, which could save more existing trees, have been evaluated and reasonably rejected. Said replacement trees shall be a minimum of three-inch diameter (measured at one foot above ground) and seven feet in height when planted.

(b) At the time of review, the agent responsible for placement, the time of replacement and the location of the new trees will be determined by the development review committee. The replacement trees shall be located on the same property that trees were removed. If the tree board approves the planting of replacement trees more than 30 days after the removal of protected trees, the applicant shall provide the city manager with an affidavit that all replacement trees will be planted within six months. A replacement tree that dies within two years of the date it was planted must be replaced by another replacement tree in compliance with this division.

(c) Tree mitigation fund. The applicant may make a payment into the tree mitigation fund to be administered by the city in lieu of planting the replacement tree on the subject site if approved by the tree board. The funds shall be used only for purchasing, planting and maintaining trees on public property, acquiring wooded property that shall remain in a naturalistic state in perpetuity, or to educate citizens and developers on the benefits and value of trees.

(1) The amount of the payment required for each replacement tree shall be calculated based on a schedule, which sets forth the average cost of a quality tree added to the average cost of planting a tree based on the schedule published by the International Society of Arboriculture but not less than \$250.00 per caliper inch. The schedule may be periodically updated by the city without changing this division.

(2) Fees contributed to the tree mitigation fund shall be paid prior to the issuance of a tree removal permit, building permit, approval of site plan, or approval of final plat, whichever applies.

(3) Voluntary contributions for tree preservation shall be placed in the tree mitigation fund.

(d) Tree trusts.

(1) Areas of a minimum of one acre that have the characteristics of Cross Timber Forests are eligible to be classified as a tree trust.

(2) Designation of a tree trust and use of such tree trust to satisfy the tree replacement requirements of this section shall be approved by the development review committee.

(3) Tree trusts shall be preserved with a permanent easement that shall limit any future land-disturbing activity or construction that would impact and/or damage the tree(s) and shall run with the land and be binding upon all successors and assigns of the current owner. Methods for the long-term conservation of said trees may include permanent conservation easements, restrictive covenants, or other such legal mechanisms.

(4) Trees that are required to be preserved in compliance with other development regulations shall not be credited towards the tree trust.

(5) Areas that are undevelopable, including, but not limited to, undeveloped floodplain, wetlands and riparian areas, shall not be designated as tree trusts.

(2000 Code, sec. 9.207.20)

Sec. 10.03.241 Tree transplantation

The city may request to enter a property following the approval of a tree removal permit or development plans for a property to inspect the site for any trees marked for removal that may be transplanted. The city will pay all costs associated with the removal and transplantation of designated trees to public parks, public facilities or public rights-of-way. (2000 Code, sec. 9.207.21)

Sec. 10.03.242 Tree protection

A major purpose of this division is to protect all protected/quality trees, which are not required to be removed, to allow approved construction to occur. The following procedures are required:

(1) All construction plans shall include the necessary documents as requested by the development review committee to review the tree preservation plan.

(2) The following activities shall be prohibited within the limits of the critical root zone of any protected tree subject to the requirements of this division:

(A) Material storage. No materials intended for use in construction or waste materials accumulated due to excavation or demolition shall be placed within the limits of the critical root zone of any protected tree. However, this restriction shall not apply to material storage in areas exempt from the tree protection and replacement requirements (e.g., building pad, driveway, patios, parking lot, etc.).

(B) Equipment cleaning/liquid disposal. No equipment shall be cleaned or other liquids deposited or allowed to flow overland within the limits of the critical root zone of a protected tree. This includes, without limitation, paint, oil, solvents, asphalt, concrete, mortar or similar materials.

(C) Tree attachments. No signs, wires or other attachments, other than those of a protective nature, shall be attached to any protected tree. Fencing attached to a tree via "U" nails or bent nails when only at points of tangency with the trees are allowed.

(D) Vehicular traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the critical root zone of any protected tree other than on an existing street pavement. This restriction does not apply to single incident access within the critical root zone for purposes of

clearing underbrush, establishing the building pad and associated lot grading, vehicular traffic necessary for routine utility maintenance or emergency restoration of utility service or routine mowing operations.

(E) Grade changes. No grade changes shall be allowed within the limits of the critical root zone of any protected tree unless adequate construction methods are approved by the development review committee or if grading is as directed by the city's engineer.

(F) Impervious paving. No paving with asphalt, concrete or other impervious materials in a manner that may reasonably be expected to kill a tree shall be placed within the limits of the critical root zone of a protected tree. If a protected tree dies within five years of issuance of a certificate of occupancy for nonresidential construction or final building inspection for residential construction, due to construction activity or impervious paving around the critical root zone of the tree, the property owner shall submit a mitigation plan and tree replacement in accordance with this division shall be required.

(3) A protected tree shall be considered to be preserved only if a minimum of 75 percent of the critical root zone is maintained at undisturbed natural grade and no more than 25 percent of the canopy is removed due to building encroachment.

(4) The following procedures shall be followed on all types on construction projects (i.e. residential subdivisions, commercial, multifamily, residential builders and municipal/ public).

(A) Tree flagging or marking. Trees that are shown on an approved plan by the city for preservation/protection shall be flagged with bright fluorescent orange vinyl tape or ribbon wrapped around the main trunk at a height of four and one-half feet or more such that it is very visible to workers operating construction equipment. Trees that are marked for preservation/protection shall have protective fencing in accordance with the requirements of this division.

(B) Protective fencing. In those situations where a protected tree is so close to the construction area that construction equipment might infringe on the root system or is within 20 feet of the construction area, a protective fencing shall be required between the outer limits of the critical root zone of the tree and the construction activity area. Four feet high protective fencing shall be supported at a maximum of ten feet intervals by approved methods. All protective fencing shall be in place prior to commencement of any major site work involving heavy equipment for construction of utilities and roadways and shall remain in place until all site work has been completed. This provision does not apply to clearing the right-of-way for the purpose of access to the site for site preparation.

(C) Protective fencing shall not be required for clearing the rights-of-way for the purpose of access to the site. Once the site is accessible by heavy equipment, protective fencing shall be placed in accordance with this division.

(2000 Code, sec. 9.207.22)

Sec. 10.03.243 Tree pruning restrictions

No protected tree shall be pruned in a manner that significantly disfigures the tree or in a manner that

would reasonably lead to the death of the tree.

(1) Allowed pruning. Protected trees may be strategically pruned to allow construction or demolition of a structure. All pruning shall take place in accordance with approved arboricultural techniques and the recommendations of [section 10.03.247](#), exhibit G. Reasonable pruning of trees also may be performed or contracted to be performed by the owner of the tree when unrelated to construction activity.

(2) Required pruning. The owners of all trees adjacent to public right-of-way shall be required to maintain a minimum clearance of 13.5 feet above the traveled pavement or curb of a public street. Said owners shall also remove all dead, diseased or dangerous trees, or broken or decayed limbs that constitute a menace to the safety of the public. The city shall also have the right to prune trees overhanging within public right-of-way that interfere with the proper spread of light along the street from a streetlight or interfere with visibility of any traffic-control device or sign or as necessary to preserve the public safety.

(3) Tree topping. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this division at the determination of the city.

(2000 Code, sec. 9.207.23)

Sec. 10.03.244 Tree planting restrictions

(a) Overhead lines. Any required replacement trees shall not be planted within an area such that the mature canopy of the tree will be within ten feet of overhead utility lines.

(b) Underground utilities. Any required replacement trees or street trees shall not be planted within five feet of underground public utility lines, including water lines, sewer lines, transmission lines or other utilities. No trees may be planted within five feet of a fire hydrant.

(c) Street corners. No street tree shall be planted closer than 25 feet of any street corner, measured from the point of nearest intersecting curbs or curblines.

(2000 Code, sec. 9.207.24)

Sec. 10.03.245 Enforcement

(a) Permit required. No development or grading activity shall commence until all applicable requirements of this division are met and a notice to proceed or a tree removal permit has been issued for the site. The building official or other authorized representative of the city shall have the authority to place a stop work order on any activity involving the removal of protected/quality trees, protected/historic trees, or that may otherwise endanger trees contrary to the provisions of this division.

(b) Acceptance of improvements. No acceptance of public improvements shall be authorized until it is determined that all requirements of this division are met and all fines for violations of this division have been paid to the city or otherwise disposed of through the municipal court. No acceptance of public

improvements shall be authorized until all replacement trees have been planted or appropriate payments have been made to the tree mitigation fund.

(c) Certificate of occupancy. No certificate of occupancy for nonresidential construction or final building inspection for residential construction shall be issued until it is determined that all requirements of this division are met and all fines for violations of this division have been paid to the city or otherwise disposed of through the municipal court. No certificate of occupancy shall be issued until all replacement trees have been planted or appropriate payments have been made to the tree mitigation fund.

(d) Notwithstanding the above provisions, public improvements may be accepted and certificate of occupancy may be issued before all trees have been replaced if an escrow account is established by the city in the amount equal to the prevailing rate for installed trees with a two-year guarantee, plus 15 percent to cover administrative costs.

(2000 Code, sec. 9.207.30)

Sec. 10.03.246 Penalty

(a) Penalty for unauthorized removal of protected/quality trees. Any person, firm, corporation, agent, or employee thereof who violates the provisions of this division by removing a protected/quality tree without a permit shall be guilty of a misdemeanor and, upon conviction hereof, shall be fined in an amount not to exceed \$250.00 per diameter inch of the tree(s) removed or damaged. Funds paid to the city as tree removal penalties shall be deposited in the tree mitigation fund and used by the city to provide and/or support supplemental landscape plantings in public areas of the city.

(b) Penalty for unauthorized removal of protected/historic trees. Any person, firm, corporation, agent, or employee thereof who violates the provisions of this division by removing a protected/historic tree without a permit shall be guilty of a misdemeanor and, upon conviction hereof, shall be fined in an amount not to exceed \$750.00 per diameter inch of the tree(s) removed or damaged. Funds paid to the city as tree removal penalties shall be deposited in the tree mitigation fund and used by the city to provide and/or support supplemental landscape plantings in public areas of the city.

(c) A person, firm, corporation, agent, or employee thereof [who] violates any other provisions of this division shall be guilty of a misdemeanor and upon conviction hereof shall be fined in an amount not to exceed \$500.00 for each incident. The unlawful injury, destruction or removal of each protected tree shall be considered a separate incident and each incident subjects the violator to the maximum penalty set forth herein per tree.

(2000 Code, sec. 9.207.31)

Sec. 10.03.247 Tree preservation exhibits

It is anticipated that the following exhibits will be changed periodically by the development review committee in response to changes in the administration of this division.

Protected/Historic Trees - 6" Caliper and Greater

Common Names

Botanical Names

Blackjack Oak Quercus marilandica

Post Oak Quercus stellata

Protected/Quality Trees - 6" Caliper and Greater

Common Names

Botanical Names

Oak (all species) Quercus spp.

Pecan Carya illinoensis

Cedar Elm Ulmus crassifolia

American Elm Ulmus americana

Lacebark Elm Ulmus parvifolia

Winged Elm Ulmus alata

Bitter-nut Hickory Carya cordiformis

Black Hickory Carya texana

Red Hickory Carya ovalis

Texas Hickory Carya texana

Red Cedar Juniperus virginiana

Texas Ash Fraxinus texensis

Green Ash Fraxinus pennsylvanica

Black Walnut Juglans nigra

Sycamore Platanus occidentalis

Sweet Gum Liquidambar styraciflua

Honey Mesquite Prosopis glandulosa

Sugar-Berry Celtis laevigata

Protected/Quality Trees - Understory Trees

Common Names

Botanical Names

Redbud Cercis canadensis

Mexican Plum Prunis mexicana

Deciduous Holly Ilex deciduas

Yaupon Holly Ilex vomitoria

Possumhaw Holly Ilex decider

Eve's Necklace Sophora affinis

Texas Persimmon Diospyros texana

Rough-leaf Dogwood Cornus drummondii

Chicksaw Plum Prunus augustifolia

Little False Bluestem Schizachyrium scoparium

EXHIBIT B. CITY OF OAK POINT TREE REMOVAL PERMIT APPLICATION

Development Name: _____ Lot: _____ Block: _____

Street Address: _____

Owner

Contractor/Builder

Name:

Address:

Phone:

I hereby certify that this application meets the requirements of the Tree Preservation section within this Ordinance and further certify that all construction pertaining to this project shall meet the requirements of the Tree Preservation section within this Ordinance.

Signed: _____ Title: _____ Date: _____

<i>For City use only:</i> I hereby acknowledge receipt of this application and the application fee in the amount of \$_____ on this the _____ day of _____, 2005.
Signed: _____ Title: _____ Date: _____

Shown On	Not	General Information
Plat	Applic.	

- | | | |
|-------|-------|--|
| _____ | _____ | Appropriate Title (i.e. Tree Removal Permit Exhibit) |
| _____ | _____ | Title block includes street address, lot and block, subdivision name |
| _____ | _____ | Title includes City and date of preparation |
| _____ | _____ | North arrow, graphic and written scale in close proximity |
| _____ | _____ | Name, address and phone of owner |
| _____ | _____ | Location of tree(s) to be removed is tied down with dimensions from two nearest property lines |
| _____ | _____ | Location of all R.O.W. lines and public easements |
| _____ | _____ | Location of all buildings, structures, pools and other improvements |
| _____ | _____ | Areas of cut/fill and flow lines |
| _____ | _____ | Caliper and common name of tree(s) to be removed |
| _____ | _____ | Any required replacement tree(s) shown with caliper size and common name - of tree |

_____ Limits of construction line shown

Reason Tree(s) must be removed: _____

Permit for tree removal approved the _____ day of _____, 2005.

By: _____ Title: _____

Notes:

Figure 1. Exhibit B

EXHIBIT C. CONSTRUCTION PLAN REQUIREMENTS

The following shall be required as a part of all construction plans submitted to the city when tree removal or tree protection is required during any phase of site work or construction:

1. A tree preservation detail sheet shall include the following at a minimum:
 - a. The requirements of [section 10.03.243](#) (Tree pruning restrictions) shall be noted.
 - b. A graphics legend to be used throughout the plans for the purposes of showing the following:
Trees to be flagged, protective fencing, trees requiring bark protection, boring, areas of cut and fill impacting protected/quality trees.
 - c. Graphic tree exhibit showing the features of a tree to include the critical root zone, trunk, canopy, drip line, and method of caliper measurement (see exhibits D & E).
 - d. Graphic exhibits showing methods of protection to include snow fences, boarded skirts, etc.
 - e. Graphic exhibits showing construction methods to include grade changes, boring, trenching, etc.
 - f. Graphic exhibits showing appropriate pruning practices (see exhibit G).
2. All requirements of the tree preservation section within this division shall be shown graphically as needed on the construction plans.

EXHIBIT D. TREE EXHIBIT

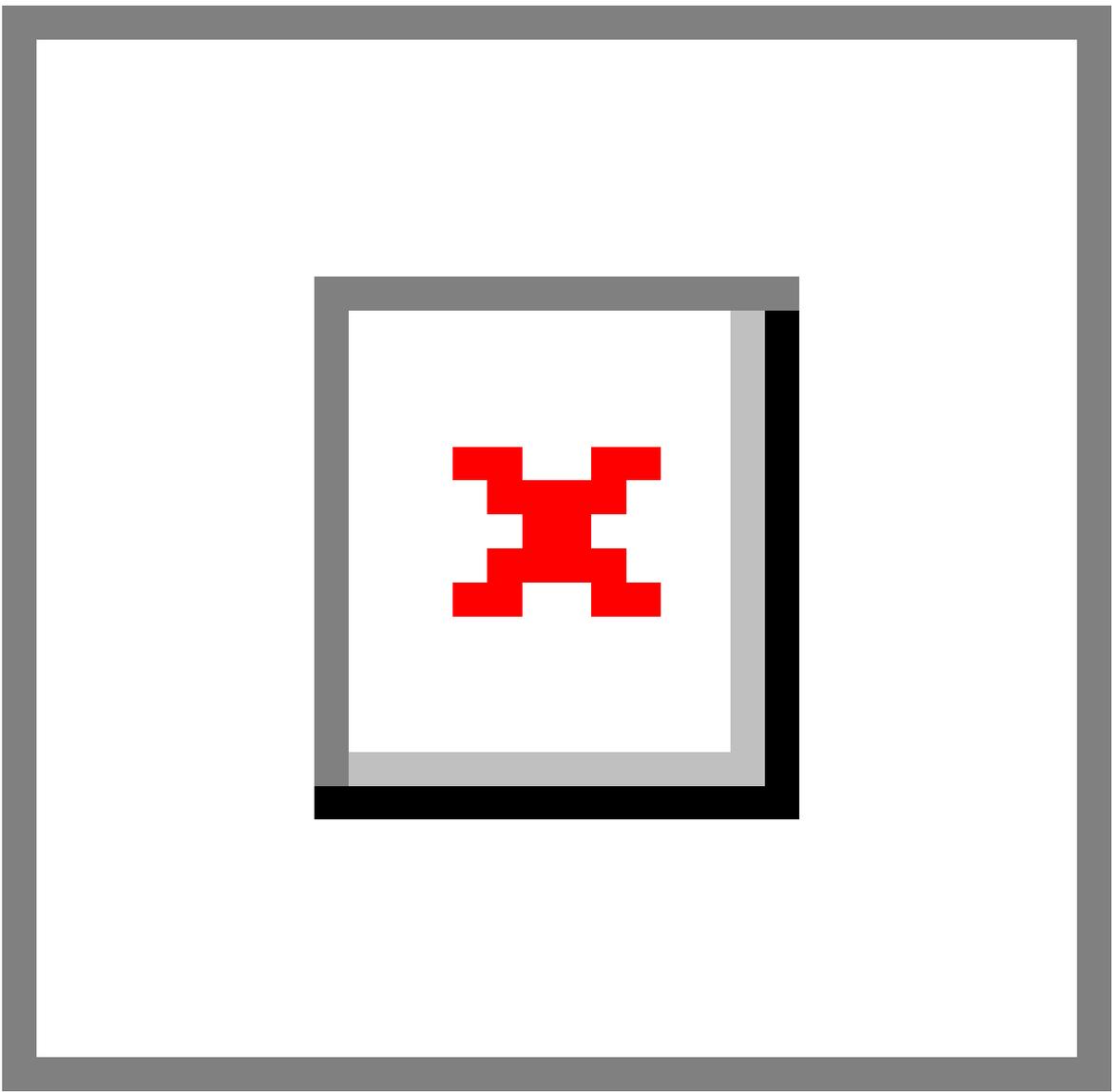


Figure 2. Exhibit D

EXHIBIT E. MEASUREMENT METHODS

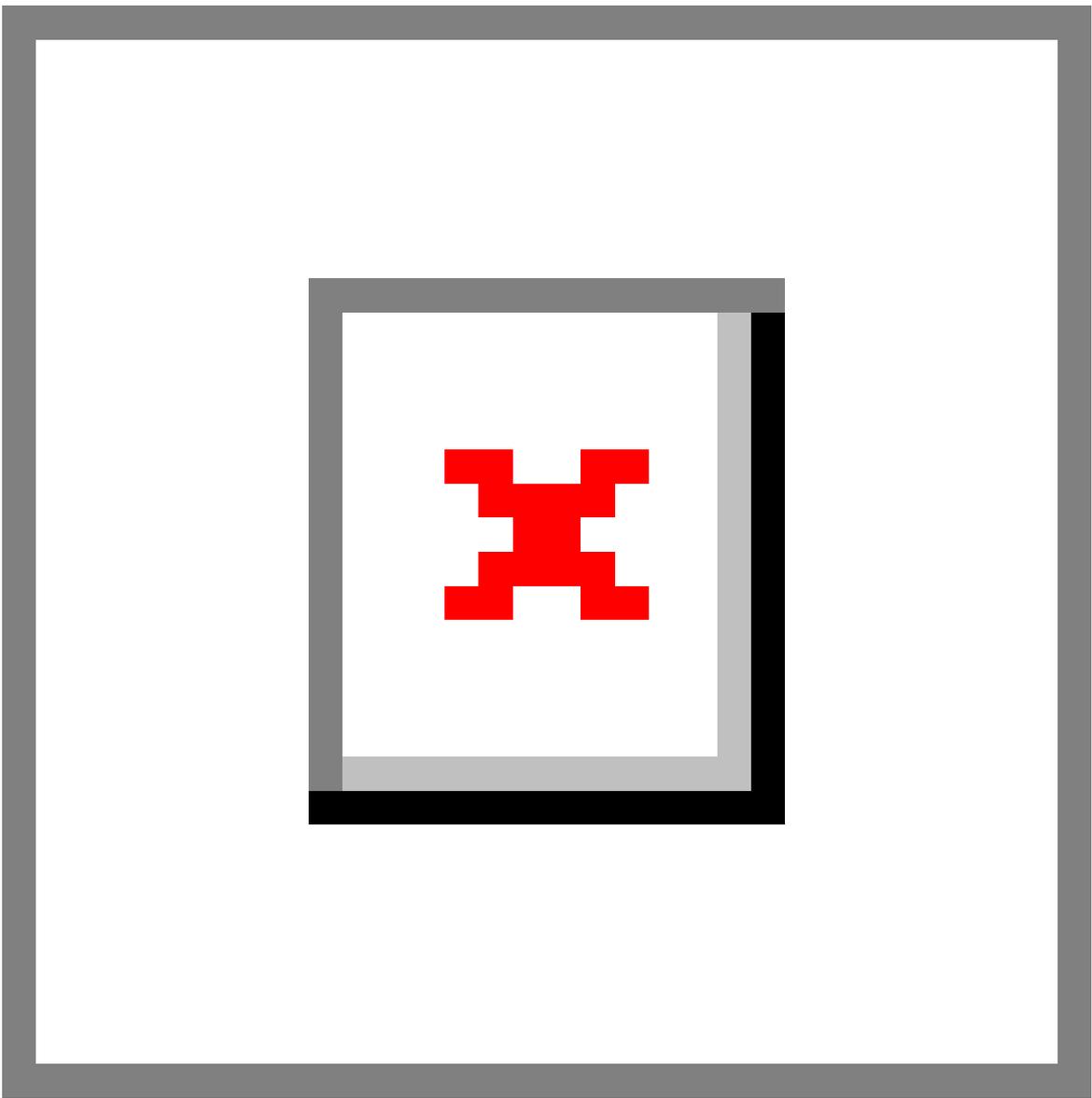


Figure 3. Exhibit E

EXHIBIT F. EXAMPLE BUILDER SITE PLAN

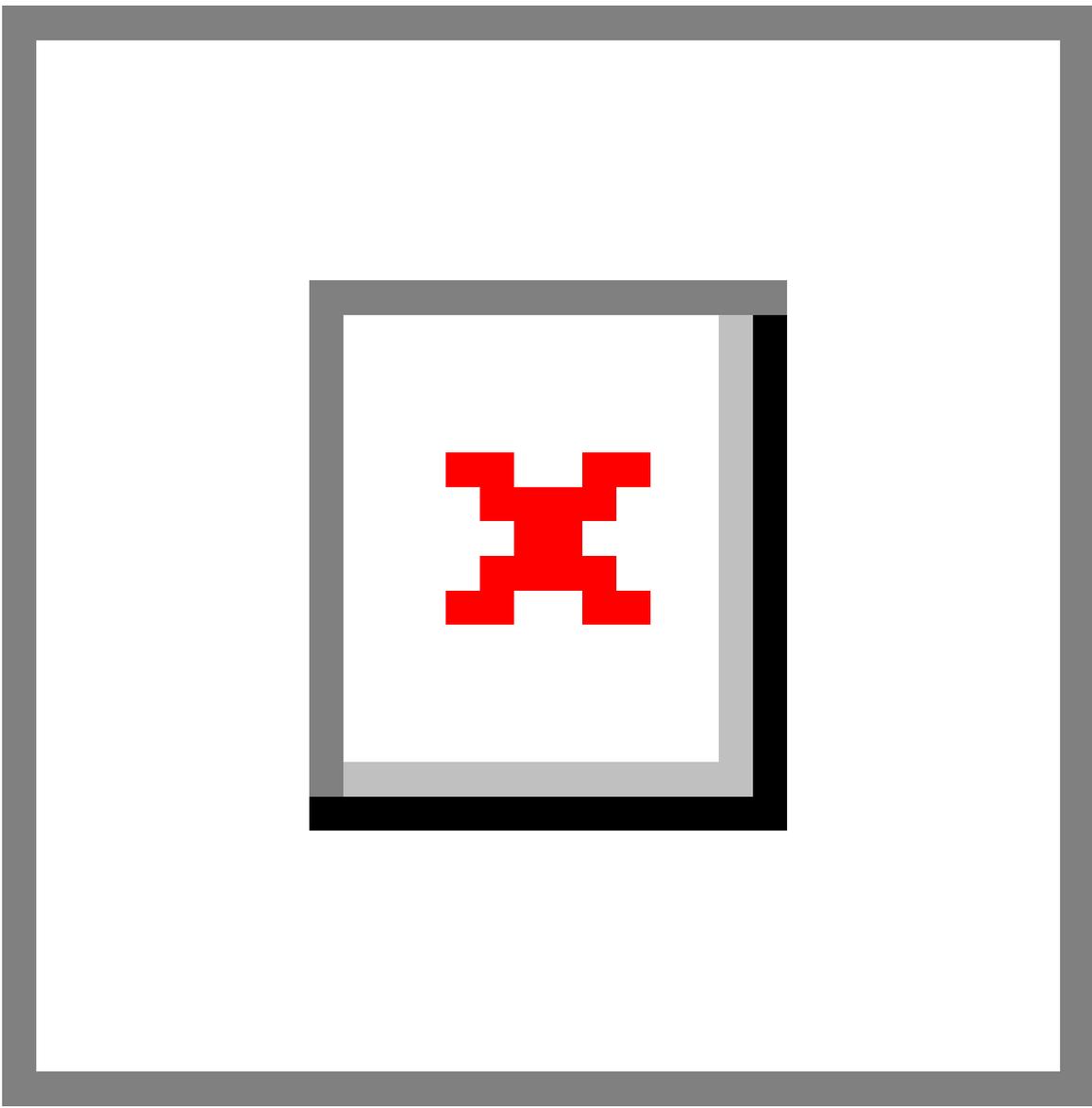


Figure 4. Exhibit F

EXHIBIT G. TREE PRUNING RECOMMENDATIONS

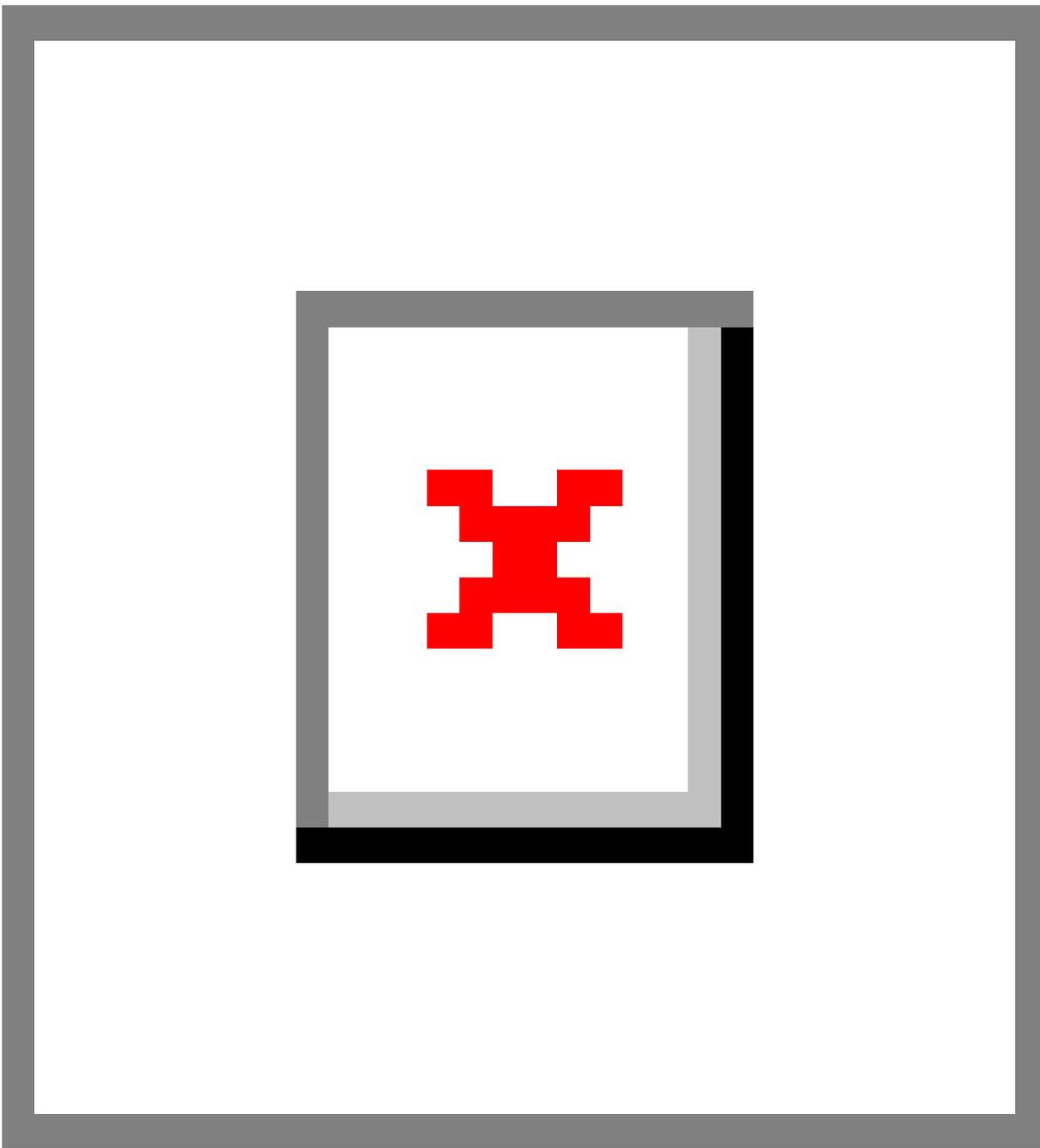


Figure 5. Exhibit G

EXHIBIT H. PREFERRED SURVEY NOMENCLATURE AND LEGEND

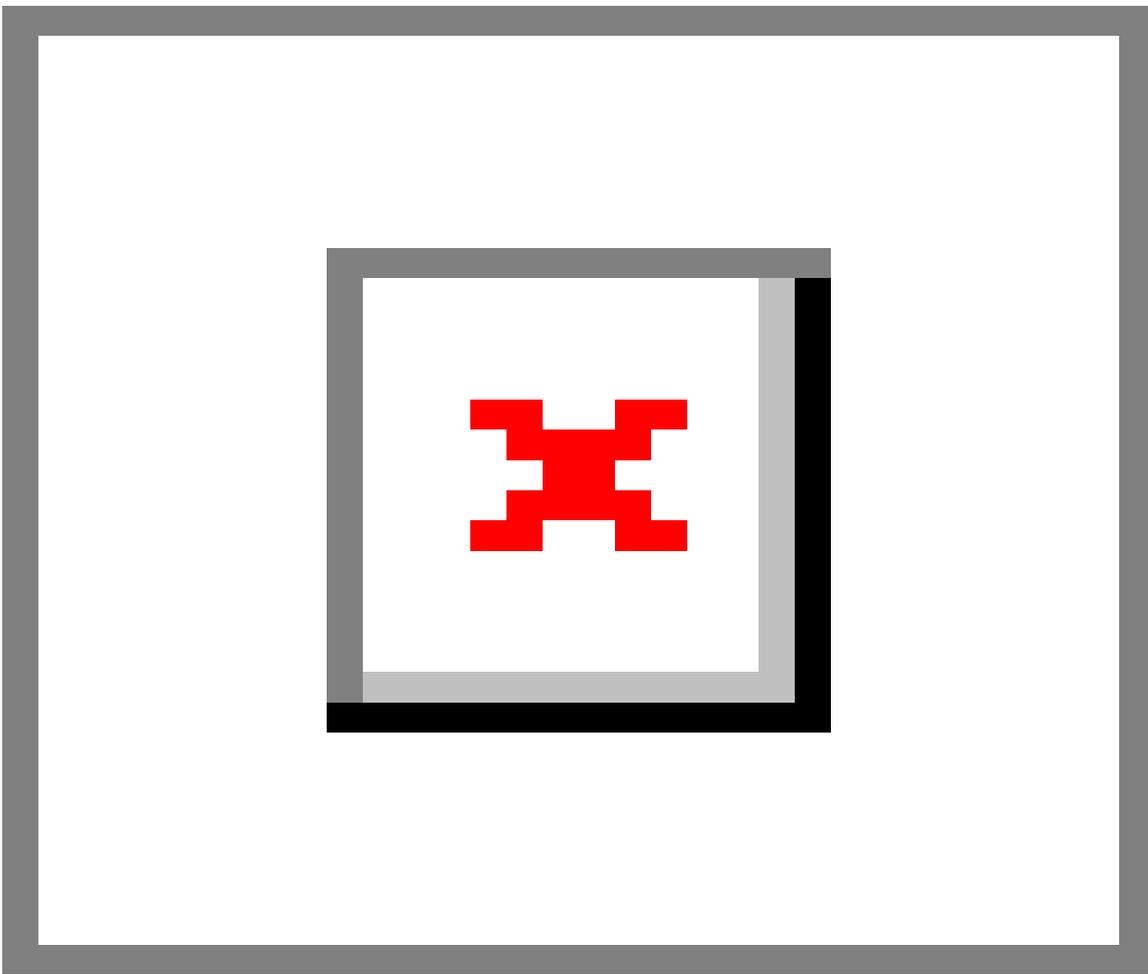


Figure 6. Exhibit H

EXHIBIT I. REPLACEMENT TREE LIST

Ornamental Trees (10 to 25 feet)

American Holly*	<i>Ilex opaca</i>
Arborvitae	<i>Thuja orientalis</i>
Arizona Cypress	<i>Cupressus arizonica</i>
Cherry Laurel	<i>Prunus caroliniana</i>
Chinese Photinia	<i>Photinia serrulata</i>
Crepe Myrtle	<i>Lagerstroemia indica</i>
Oleander	<i>Nerium oleander</i>
Possumhaw*	<i>Ilex deciduas</i>
Russian Olive*	<i>Eleagnus angustifolia</i>

Texas Persimmon	Diospyros texana
Vitex*	Vitex agnus-castus
Wax Myrtle*	Myrica cerifa
Yaupon Holly*	Ilex vomitoria

Small Trees (20 to 35 feet)

Afghan Pine	Pinus eldarica
Chinese Pistache	Pistacia chinensis
Desert Willow*	Chilopsis linearis
Eve's Necklace	Sophora affinis
Japanese Black Pine	Pinus thunbergi
Mexican Plum*	Prunus mexicana
Redbud*	Cercis sp.
Texas Pistache	Pistacia texana
Soapberry*	Sapindus drummondii

Large Trees (above 35 feet)

Bur Oak*	Quercus macrocarpa
Cedar Elm*	Ulmus crassifolia
Chinquapin Oak	Quercus muhlenbergii
Texas Ash*	Fraxinus texensis
Green Ash*	Fraxinus pennsylvanica
Lace Bark Elm	Ulmus parvifolia
Live Oak	Quercus virginiana

Pecan

Carya illinoensis

Schumard Red Oak*

Quercus schumardii

Texas Red Oak*

Quercus texana

*Low water use

(2000 Code, sec. 9.207.32)