

ORDINANCE NO. 4704

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING APPENDIX B OF THE MESQUITE CITY CODE, THE MESQUITE SUBDIVISION ORDINANCE, AS AMENDED, BY DELETING THE DEFINITION OF DIRECTOR OF COMMUNITY DEVELOPMENT IN ARTICLE II, DELETING ARTICLE III AND SECTION L IN ARTICLE V IN THEIR ENTIRETY, RENUMBERING SECTION M IN ARTICLE V TO SECTION N IN ARTICLE V AND ADDING A NEW DEFINITION FOR DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES IN ARTICLE II, A NEW ARTICLE III AND NEW SECTIONS L AND M TO ARTICLE V THEREBY AMENDING REGULATIONS RELATED TO THE SUBMITTAL AND APPROVAL PROCESSES FOR PLATS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE NOT TO EXCEED \$2,000.00 FOR EACH OFFENSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, HB 3167, referred to as the “Shot Clock” bill, takes effect on September 1, 2019; and

WHEREAS, the bill is intended to place limitations on the time it takes for a city or county to act on a proposed plat; and

WHEREAS, HB 3167 necessitates changes to the City’s plat application requirements and approval processes contained in the Subdivision Ordinance; and

WHEREAS, on August 12, 2019, the Planning and Zoning Commission voted to recommend approval of proposed amendments to the Subdivision Ordinance; and

WHEREAS, the City Council did give public notice and did hold a public hearing regarding the proposed amendments.

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

SECTION 1. That Appendix B of the Mesquite City Code, the Mesquite Subdivision Ordinance, as amended, is hereby amended by deleting the definition of “Director of Community Development” in Article II, deleting Article III and Section L in Article V in their entirety; by renumbering Section M in Article V to Section N in Article V and adding a new Article III and new Sections L and M to Article V. Such revisions are attached hereto as Exhibits “A,” “B” and “C,” respectively, and incorporated herein by reference and made a part thereof. A copy of the Mesquite Subdivision Ordinance shall be kept on file in the office of the City Secretary.

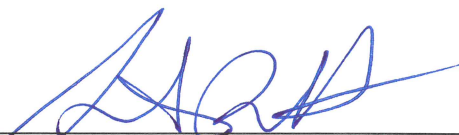
SECTION 2. That all ordinances, or portions thereof, of the City of Mesquite in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed; otherwise, they shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 4. That any person (as defined in Chapter 1, Section 1-2 of the Code of the City of Mesquite, Texas, as amended) violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction thereof, shall be subject to a fine not to exceed Two Thousand (\$2,000.00) Dollars for each offense, provided, however, if the maximum penalty provided for by this ordinance for an offense is greater than the maximum penalty provided for the same offense under the laws of the State of Texas, the maximum penalty for violation of this ordinance for such offense shall be the maximum penalty provided by the laws of the State of Texas. Each day or portion of a day any violation of this ordinance continues shall constitute a separate offense.

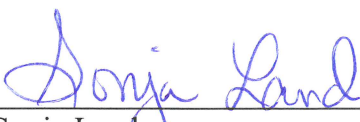
SECTION 5. That this ordinance shall take effect and be in force from and after five days after publication.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 19th day of August 2019.



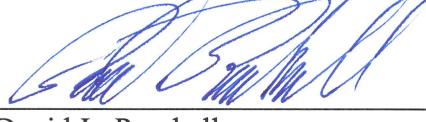
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney

EXHIBIT "A"

Appendix B, Mesquite Subdivision Ordinance
Article II

- I. *Article II.* Amend Appendix B of the Mesquite City Code, the Mesquite Subdivision Ordinance, as amended, by deleting the definition of "Director of Community Development" in its entirety and adding a new definition for "Director of Development Services or Director" to read as follows, said Ordinance and Article in all other respects to remain in full force and effect:

Director of Development Services or Director: The Director of Planning and Development Services or Director or the Director's authorized representative.

ARTICLE III. PLATTING REVIEW PROCEDURES**A. Purpose and organization of Article.**

Procedural requirements. This Article describes the procedures for review of all plat applications.

B. Self-survey and pre-application meeting.

(1) *Purpose.* The purpose of the self-survey and pre-application meeting is to provide an opportunity for the applicant and the City to discuss the development concept prior to the first application for a project in order to:

- (a) Determine the required application(s) and the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
- (b) Provide the applicant with application materials and inform the applicant of submittal requirements;
- (c) Inform the applicant of the review processes available and the applicable time frame;
- (d) Discuss generally compliance with the Mesquite City Code’s zoning, development, and engineering design standards, and attempt to identify potentially significant issues;
- (e) Discuss the need for any public notice requirements; and
- (f) Refer the applicant to other departments or agencies to discuss potential significant issues prior to application submittal.

(2) *Applicability.*

- (a) *Self-survey required.* A self-survey must be submitted as a request for a pre-application meeting. Self-survey information is available on the City’s website.
- (b) *Pre-application meeting required.* A pre-application meeting is required prior to submitting an application. The pre-application meeting is designed to help the applicant understand the Mesquite development approval process and regulations applicable to the proposed application. The pre-application meeting schedule and other information can be found on the City of Mesquite website.
- (c) The pre-application meeting does not constitute the filing of an application under Chapter 212 of the Texas Local Government Code.

- (d) *Record of pre-application conference.* The City is not responsible for making or keeping a summary of the topics discussed at the pre-application conference.

C. Application submission.

- (1) *Submission.* Submission and completeness review are a prerequisite to filing an application. Submission does not constitute the filing of an application under Chapter 212 of the Texas Local Government Code.
- (2) *Authority to submit applications.* Only the person having legal authority to take action according to the approval sought may submit a plat application. The person is presumed to be the record owner or the duly authorized agent of the record owner. Agents may only submit applications where the owner provides written consent.
- (3) *Applications.* All applications required by this section shall be submitted to the Planning Division, unless otherwise specified.
- (4) *Coordination of applications.* An applicant shall file the following applications, if required, concurrently with an application for plat approval:
 - (a) Flood study;
 - (b) Engineering plans;
 - (c) Subdivision variance; and
 - (d) Any other application or submittal required by regulations applicable to the application.
- (5) *Contact person designation.*
 - (a) The applicant shall designate one person on the application as the primary contact person who will be responsible for all notifications, including meeting dates, deadlines, and requirements. The City will communicate with the contact person about the application and review procedures. It is the contact person's responsibility to inform the owners or applicant of such information.
 - (b) The applicant shall notify the Director in writing if there is to be a change in the contact person. The Director will continue to communicate with the designated contact person until the notice of change has been received.

D. Application contents and fees.

- (1) *Application contents generally.* The applicant shall provide any information, documents, or other material relevant to the application identified in the pre-application meeting that the Director reasonably believes is necessary in order for

the City to evaluate, analyze, and understand the subject matter of the application. The following must be provided unless otherwise determined by the Director:

- (a) Boundary lines, bearings and distances sufficient to locate area.
- (b) Name and location of all adjoining subdivisions or large tracts, drawn to the same scale and shown in dashed lines, in sufficient detail to accurately show existing streets, alleys, lots and other features that may influence the development. Adjacent unplatted land must be also shown, including property lines and owners of record.
- (c) The names of all adjoining subdivisions, the dimensions of all abutting lots, lot and block numbers and accurate reference ties to courses and distances of at least two recognized land corners shall be shown if no existing legally platted subdivision is adjacent to the subject property.
- (d) Location and width of all streets, alleys and easements, existing or proposed. A written statement as to the easement use must be included on the plat. Existing easements must be identified by Deed Record by volume and page number.
- (e) Primary control points, or descriptions and ties to such control points, to which all dimensions, angles, bearings, block numbers, and similar data are referred.
- (f) Proposed subdivision of the property, including lot and block numbers.
- (g) Proposed building lines.
- (h) All plats shall be on sheets 24 inches by 36 inches and to a scale of not less than 100 feet to the inch or longer, unless otherwise approved by the Director. When more than one sheet is required to encompass the subdivision, an index sheet (24 inches by 36 inches) shall be filed showing the entire subdivision together with the complete dedication, attests, dates, titles and seals on one sheet.
- (i) The exterior boundary of the subdivision shall be indicated by a distinctive dashed line and corner markers by individual symbols.
- (j) A location map clearly showing the location of the proposed plat with cross streets. Whether to scale or not to scale (NTS) and the north arrow must be indicated.
- (k) Abstract lines, survey lines, county lines and corporate boundaries must be shown and clearly labeled.

- (l) Each lot must be numbered and block groups assigned a letter. Homeowner's Association and other open space areas must be identified with tract number.
- (m) The length and bearing of all straight lines, radii, arc lengths, tangent lengths and central angles of all curves must be indicated along the boundary line of the subdivision and each block. All dimensions along the lines of each lot must be shown. The curve data pertaining to block or lot boundary may be placed in a curve table at the base of the plat and prepared in the following manner:

CURVE TABLE

<u>Curve Number</u>	<u>Description</u>	<u>Elements</u>	<u>Outer Property Line</u>	<u>Center Line</u>	<u>Inner Property Line</u>
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- (n) Internal lot lines must be clearly indicated, shown to scale, and labeled with bearings and distances.
- (o) Abutting properties must be indicated by a light solid line.
- (p) Sites to be reserved or dedicated for parks, playgrounds and/or other public uses must be indicated and labeled.
- (q) The plat must be tied to two Global Positioning System (GPS) reference points and must be shown on the plat. The GPS points must be in grid coordinates (not surface), North American Datum (NAD) 83, Texas State Plane, North Central FIPS Zone 4202. The Point of Beginning must include one of the grid coordinates.
- (r) The names and accurate location of all streets adjoining, abutting or within not more than 200 feet of the subdivision must be shown unless a platted subdivision exists adjacent to the property under consideration.
- (s) The plat must tie down property corners/iron rods found on the opposite side of the streets to verify width of the existing ROW. Identify existing actual ROW widths based on these measurements and label on the plat.
- (t) Limits of the ultimate (fully developed conditions) 100-year flood plain and floodway including water surface elevations must be shown on the plat.
- (u) The 100-year fully developed water surface elevation must be shown at upstream, downstream and 300-foot intervals along the creek on the plat. Reference for the source information for the 100-year fully developed water surface elevation must be noted on the plat.

- (v) All drainage pipe (greater than 15-inches in diameter), inlets and other drainage structures and facilities must be in a public drainage easement with maintenance governed by the terms of the drainage maintenance agreement on the plat. All drainage easements must be a minimum of 15-feet in width. Width may be different depending on size and depth of pipe. Reference the City's Engineering Design Manual for requirements.
- (w) Drainage Maintenance Agreement provided on the City of Mesquite Website must be placed on the plat.
- (x) Public water and sewer easements must be a minimum of 15-feet in width. Width may be different depending on the size and depth of pipe. Reference the City's Engineering Design Manual for requirements.
- (y) The location and dimension of any utility easement adjoining or abutting the subdivision or proposed within the subdivision must be shown. Required and proposed ingress/egress or access easements must be shown, clearly labeled and tied down, as appropriate.
- (z) The description and location of all survey monuments placed in the addition or subdivision must be shown. In all subdivisions and additions, corners must be established at the corner of each block in the subdivision consisting of an iron rod or pipe not less than $\frac{3}{4}$ -inch in diameter and 24 inches deep flush with the top of the sidewalk. Lot corner monuments must be placed at all lot corners except corners which are also block corners, consisting of iron rods or pipes of a diameter of not less than $\frac{1}{2}$ -inch and 18 inches deep set flush with the top of the sidewalk. In addition, curve point markers must be established of the same specification as lot corners. All lot corners must be installed prior to filing of the plat.
- (aa) The plat must show a title including the name of the addition or subdivision, the name of the owner and engineer or surveyor, scale and location of subdivision with reference to original land grant or survey and abstract number and a north point with true and magnetic north.
- (bb) A certificate of ownership, giving a metes and bounds description of the property, dedication of all streets, alleys, easements, parkways and parks where dedicated to the City and dedication or reservation of all easements and drainage ways to the public use, signed and acknowledged before a Notary Public by the owner of the land, must appear on the face of the plat or index sheet of the plats where two or more sheets are required.
- (cc) The certificate of the Registered Professional Engineer or Registered Public Land Surveyor who surveyed, mapped and monumented the land, which certificates must be attested before a Notary Public, and placed on the face of the plat or on index sheets of the plats together with the seals of the engineer or surveyor and Notary Public. Printed seals and signatures are

prohibited except for extra prints that the owner or Developer may need certified for other purposes. The certificates of the engineer or surveyor to be placed on the plat are provided on the City's Online Application Portal.

- (dd) A declaration of covenants and easements as provided on the City of Mesquite Website.
 - (ee) The applicable City approval signature block form as provided on the City of Mesquite Website.
- (2) *Submittal waivers pursuant to pre-application meetings.* At or following a pre-application meeting, the Director may waive certain submittal requirements, except for fees, in order to tailor the requirements to the information necessary to review a particular application. The Director may waive such requirements where the Director finds that the projected size, complexity, anticipated impacts, or other factors associated with the proposed development or subdivision clearly justify the waiver.
- (3) *Authorization and Payment Required.*
- (a) The City Council shall adopt, and amend from time-to-time, a fee schedule setting forth an assessment of fees to defray the cost of processing plat applications. The fee schedule for plat applications, as amended, is provided in Appendix D of the Mesquite City Code.
 - (b) If review of the application requires use of outside consultants, the City may require, in addition to the fees above, that the applicant pay all or a portion of the reasonable fees charged by private consultants retained by the City for the purposes of reviewing the application and advising City officials and agencies with respect thereto. The Director will notify the applicant prior to retaining a consultant.
 - (c) At the time of submittal, all applications shall include payment of the processing fee, as well as any review fees charged by agencies for which the City has agreed to collect.
- (4) *No required fees for City-initiated applications.* No fee shall be required for applications initiated by the City.

E. Complete application and staff review.

- (1) *Complete application required before filing.* All application submissions must be complete prior to filing and any processing by the City of Mesquite. A complete application includes all of the submittal information identified at the pre-application meeting and any items or exhibits requested by the Director that are consistent with the standards and requirements of this ordinance. A complete application is also accompanied by the applicable fee.

- (a) *Official submission.* All applications for plats shall be officially submitted when entered on the City's Online Application Portal before 3 p.m. on a business day during normal office hours. Applications entered on or after 3 p.m. on a business day or on weekends or holidays shall not be considered submitted until the next business day following the date the information was entered. Applications generally made to other departments, such as Public Works, must be submitted as part of the plat application if required in connection with plat approval. If staff assistance is needed to submit an application, contact the Planning and Zoning Office.
- (b) *Long form application.* All plats shall be processed as a long form plat under the long form procedures unless it is determined at the pre-application meeting that the plat is eligible for one of the optional alternate procedures.
- (c) *Incomplete applications.* An incomplete application shall be denied. The City's acceptance of an application submission for completeness review does not bind the City to accept an incomplete application for filing or processing.

- 1. *Completeness determination; notice.* Staff shall determine whether an application is complete no later than 10 calendar days after the official submission of the application. Staff shall make their determination of a complete or incomplete application in writing. An e-mail to the applicant or comment in the City's online project tracking system shall be considered a determination in writing. Notice occurs upon dispatch or publication, not upon receipt.

A determination that a submission is incomplete shall identify the documents, studies, or other information needed to make the application complete. The determination shall also specify the date on which the application will expire, as calculated in Paragraph 2 of this subsection below, if the applicant does not supply the identified information to make the application complete.

If it is determined that a submission is complete, the Director shall provide notice of acceptance and the date of filing for scheduling and plat review purposes.

- 2. *Expiration of application.* An incomplete application that has not been revised to meet the completeness requirements shall be considered expired on the 45th day after the original submission of the application. The City may retain the application fee paid. Following an expired application, any additional or further requests by the applicant must be accompanied by a new application and fee.
- (d) *Application deemed complete.* An application shall be deemed complete on the eleventh calendar day after the official submission if the applicant has not been notified of an incomplete application on or before that date. If the

Director fails to identify an application as deemed complete where these regulations require that determination, the applicant may appeal to the Commission with a request to deem the application complete for the purposes of filing, review and scheduling.

- (2) *Vested rights.* No vested rights accrue from the submission of an application that has expired pursuant to this section.
- (3) *Withdrawal of application by applicant.* An applicant shall have the right to withdraw an application, without prejudice, at any time prior to action on the application at a public hearing or meeting. The applicant shall submit a written withdrawal request to the Director, and after withdrawal, the City will not take further action on the application. The application shall be considered terminated and no rights shall vest based on the application. To re-initiate review, the applicant may resubmit the application which shall in all respects it shall be treated as a new application for purposes of review, scheduling, and payment of application fees. Withdrawal of an application from a public hearing is at the Commission's discretion.
- (4) *Staff review.*
 - (a) *Review by other departments and divisions.*
 1. In addition to internal review, staff may distribute the complete application to other City departments and divisions and to any other appropriate governmental or quasi-governmental agencies and bodies to solicit comments and ensure that the proposal complies with all applicable standards, requirements, and review criteria. The applicant shall be responsible for submitting any additional information or revised plans required by staff or the referral agencies in a timely manner if required for compliance review. As applicable, the review and decision-making bodies shall consider the services and facilities provided by the referral agencies as a factor in approval of the application. The criteria for evaluating sufficiency of the services that must be satisfied for the approval of the application shall be provided to the Commission as a part of any referral response.
 2. Referral agencies shall comment in writing after receiving a complete application. The failure of any agency to respond shall be considered "no comment" on the application by that agency. As applicable, referring agencies will provide the Commission with a summary of any capacity evaluation study that assesses the availability of city-provided facilities or services to the proposed

development. The summary will include an explanation of the agency's assumptions regarding available capacity.

- (b) *Subsequent requests for information.* Staff and referral agencies shall use best efforts to identify all major issues and to request additional information, data, or reports from the applicant, during the review period described above. This provision shall not be interpreted to preclude staff or referral agencies from requesting revisions or corrections to previously submitted materials if such materials are subsequently found to be inaccurate, incomplete, or if subsequent plan revisions do not comply with applicable requirements.
- (c) *Preparation of staff report and recommendation.* Staff shall prepare a written report summarizing the review process. The report shall include discussion of the relevant issues pertaining to the compliance of the application with the standards of this ordinance. The staff report shall:
 - 1. Incorporate the relevant responses and comments from reviewing departments and agencies;
 - 2. Provide a recommendation for application approval, conditional approval or disapproval;
 - 3. If the recommendation is for conditional approval or disapproval, identify the reasons for conditional approval or disapproval, including the legal basis, and conditions that eliminate any areas of noncompliance; and
 - 4. Provide any other information deemed appropriate.
- (d) *Distribution of staff report.* Staff shall send copies of the staff report to the applicant, the relevant review or decision-making authority, and the City Attorney as appropriate. The staff report shall also be made available, upon request, to adjacent property owners or any member of the public.

F. Public notice requirements.

Applications for development approval shall comply with the Texas Statutes and the provisions of this chapter with regard to public notification.

- (1) *General notice requirements; timing of the notice.* Unless otherwise provided, notice for all public hearings shall be given pursuant to this section. Different notice requirements may apply, including written (mailed), published or posted as further described in this section.
 - (a) For all plats, agenda notice shall be posted on a bulletin board accessible to the public and published on the City of Mesquite Website a minimum of 72 hours prior to a meeting.

- (b) For residential replats, as identified in Section N of this Article, notice shall be provided in accordance with this section, including written notice and published notice.
- (2) *Content.* Notices, whether by publication or mail (written notice), shall, at a minimum:
- (a) Identify the address or location of the property subject to the application and the name of the applicant or the applicant's agent;
 - (b) Specify the date, time, and place of the public hearing;
 - (c) Describe the purpose of the application or proposal;
 - (d) Notify the public where to view the application; and
 - (e) If applicable, include a statement that the public may appear at the public hearing to be heard.
- (3) *Published notice.* When published notice is required, the City shall be responsible for preparing the content of the notice and publishing the notice in the official newspaper of the City or a newspaper of general circulation in the county where the City is located. Published notice shall be provided before the 15th day before the date of the hearing.
- (4) *Written (mailed) notice.* Written notice shall be provided as follows:
- (a) For all residential replats, variances and exceptions, the owner of the property for which the approval is sought, the owners in the original subdivision, and all property owners within 200 feet of the subject property, shall be notified of the public hearing by mail. These notices shall be postmarked no later than 15 days prior to the meeting at which the item will be considered.
 - (b) Mailed notice to property owners under Subsection (a) shall be required only for the initial presentation of the proposed development at a public hearing. Additional mailed notice in the case of a continuance to a specified date shall not be required unless otherwise directed by the City.
 - (c) The applicant shall be responsible for paying any additional fees for the purposes of re-notifying adjacent property owners if the hearing is deferred or continued at the applicant's request. If an item scheduled for initial presentation at a public hearing is withdrawn by the applicant without having been presented, then the applicant shall pay any additional fees for the purposes of re-notifying adjacent property owners of the future meeting at which the item will be considered.
- (5) *Minor defects in notice.*

- (a) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a legal description, typographical or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties.
 - (b) Failure of a party to receive written notice shall not invalidate subsequent action.
 - (c) In all cases, however, the requirements for the timing of the notice and for specifying the time, date, and place of a hearing shall be strictly construed.
 - (d) If questions arise regarding the adequacy of notice, the Director shall provide a formal finding as to whether there was substantial compliance with the notice requirements of this ordinance to the Commission prior to final action on the request.
- (6) *Presumption of notice.* When the records of the City document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice of a public hearing was given as required by this section.

G. Staff recommendations.

- (1) *Staff recommendations.*
 - (a) The Director shall evaluate the application, referral comments and staff report and make a recommendation to approve with or without conditions, or disapprove the application.
 - (b) Staff's recommendation shall be based on the evidence presented and compliance with the applicable standards and review criteria provided in this ordinance.
- (2) *Review and action by decision-making authority.* In taking action, the proper decision-making authority (Director or Commission) shall evaluate the application, referral comments, staff and other reports, public testimony, if any, and staff's recommendation. All final decision actions shall be based on the application or appeal's compliance with the standards and review criteria provided in this ordinance and other applicable laws.

H. Action by Planning and Zoning Commission on plat application.

- (1) *Action on application.* The Commission shall approve, approve with conditions or disapprove a plat within 30 days after the date the application is filed. If an application is approved with conditions or disapproved, the Commission shall include in its motion or decision a reference to the specific conditions of approval

or reasons for disapproval. Upon approval with conditions or disapproval, no later than the end of the next business day after the date of the decision, staff shall provide the conditions to approval or reasons for disapproval to the applicant in a written statement by email or on the City's Online Application Portal, identifying the specific conditions to approval or reasons for disapproval and the law serving as the basis for the condition or disapproval.

- (2) *Approval with conditions.* The Commission shall only approve a plat subject to conditions if the remaining requirements are limited to installation of public improvements by the applicant and approval of the public improvements by the City.
- (3) *Response by applicant.*
 - (a) The applicant may apply to the City with a response to conditional approval or disapproval by filing a response review application on the City's Online Application Portal that satisfies a condition or remedies a reason for disapproval.
 - (b) The application shall include the response letter, the revised plat, the response review fee, and any additional submittal requirements applicable.
- (4) *Action on response review application.*
 - (a) The application shall be scheduled for the Commission's consideration. The Commission shall approve or disapprove a response to conditional approval or disapproval within 15 days after the date a complete application, including the response review fee, is filed. If an application for response review is disapproved, the Commission shall follow the same procedure required for conditional approval or disapproval in Paragraph (1) above.
 - (b) For an application to the Director for response review of a qualifying plat approved with conditions, the Director shall approve or disapprove the application within 14 days after the date a complete application is filed.
- (5) *Consequence of action on response review application.* A plat shall be approved upon approval of all conditions to approval or responses to all reasons for disapproval. Disapproval of any condition to approval or response to a reason for disapproval constitutes continuing disapproval of the plat application.

I. Action by the Director on alternate plat application.

- (1) *Action on application.* The Director shall approve, approve with conditions or disapprove a plat within 29 days after the date the application is filed. If an application is approved with conditions or disapproved, the Director shall provide the conditions to approval or reasons for disapproval to the applicant in a written statement by email or on the City's Online Application Portal, identifying specific

conditions to approval or the reasons for disapproval and the law serving as the basis for the condition or disapproval.

(2) *Response by applicant.*

(a) The applicant may apply to the City with a response to conditional approval or disapproval by filing a response review application on the City's Online Application Portal.

(b) The application shall include the response letter, the revised plat, the response review fee, and any additional submittal requirements applicable.

(3) *Action on response review application.* The Director shall approve or disapprove a response review application within 14 days after the date a complete application is filed. If an application for response review is disapproved, the Director shall follow the same procedure required for disapproval in Subsection (1) above.

(4) *Consequence of action on response review application.* A plat shall be approved upon approval of all conditions to approval or responses to all reasons for disapproval. Disapproval of any conditional approval or response to a reason for disapproval constitutes continuing disapproval of the plat application.

J. Extensions and waivers.

(1) *Extensions.* An applicant may request an extension of the 30-day action deadline for action by the Commission by providing a written request on the City's Online Application Portal. The extension request shall provide the extension time requested not to exceed 30 days.

(2) *Waivers.* An applicant may request a waiver of any deadline provided in this Article by providing a written request to the Director on the City's Online Application Portal. The Director shall provide a written response to the waiver request which shall provide the new deadline, if any, requested by the applicant.

K. Appeals to the Planning and Zoning Commission.

As identified in the specific provisions, some decisions of the Director or other departments under this Article may be appealed to the Commission by filing a written notice of appeal with the Director within 10 calendar days after the rendering of the decision. Upon filing of a written notice of appeal, the matter shall be placed on the agenda of the next regularly scheduled meeting of the Commission no later than 15 calendar days after the notice of appeal was filed. For purposes of this Section, a decision includes a failure to act.

L. Applicability.

- (1) *General.* The procedures of this section shall apply to all subdivisions or resubdivisions that result in portioning, dividing, combining, or altering of any lot, parcel, or tract of land. A plat under this section includes a replat.
- (2) *Prerequisite to other approvals.* Except as otherwise provided in this section, no building permit may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded with the county until:
 - (a) A plat for subdivision has been approved;
 - (b) All required dedications of land have been accepted by the City; and
 - (c) All required improvements have been provided for in accordance with all applicable procedures and requirements.
- (3) *City services prior to approval/recording.* The City shall not accept or maintain any street, and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land until a plat for the subdivision has been approved and recorded with the county in accordance with the requirements set forth in this Article.
- (4) *Exceptions to platting.* A plat is not required to obtain a permit for the following:
 - (a) Commercial interior finish-outs when no site plan is required.
 - (b) Residential accessory structures.

M. Subdivision: long form plat or replat.

- (1) *Generally.* The long form regulations contained in this section apply to all plats unless the plat qualifies for an optional alternate procedure and the applicant elects that procedure.
- (2) *Procedures.*
 - (a) *Self-survey and pre-application meeting.* An applicant for long form plat or replat approval shall complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City.
 - (b) *Application submission, contents and fees.* An applicant shall submit an application in compliance with this Article.
 - (c) *Completeness review.* All applicants are required to submit complete applications in compliance with this Article.

- (d) *Public notice requirements.* Notice by publication or mail is not required for a long form plat or replat application unless it is a residential replat as described in Subsection N of this Article.
- (e) *Action by the Planning and Zoning Commission.* A long form plat or replat application is reviewed and decided-upon by the Commission.
- (f) *Review criteria.* The Commission shall not approve a long form plat or replat unless it meets all of the following criteria that apply to the application.
 - 1. The proposed development conforms with all requirements of this ordinance and other related City ordinances;
 - 2. The proposed development conforms with the City of Mesquite Comprehensive Plan and any other applicable plan documents;
 - 3. The proposed development is in compliance with applicable zoning regulations;
 - 4. The proposed development meets all the requirements or conditions of any applicable, related development approvals (such as Regulating Plan or PD);
 - 5. The proposed development conforms with the latest adopted master thoroughfare plan and related street standards;
 - 6. The proposed development conforms with city and/or county regulations for the safe and adequate provision of water supply and sanitary waste collection and disposal;
 - 7. The proposed development conforms with adopted federal, state, county, and city storm water management regulations;
 - 8. The proposed development conforms to the requirements of the Engineering Design Manual;
 - 9. Required public improvements have been constructed and approved by the City; and
 - 10. A dedication instrument is complete and signed.

N. Subdivision: additional requirements applicable to replats.

- (1) *Generally.* A replat is a redesign of all or a part of a recorded plat or subdivision of land that substantially changes the elements of the plat. A replat supersedes a previously approved plat for the same land.

- (2) *Replat without vacating plat.* A replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:
 - (a) Is signed and acknowledged by all the owners of the property being replatted; and
 - (b) Does not attempt to amend or remove any covenants or restrictions.
- (3) *Residential replats.*
 - (a) In addition to other requirements, a replat constitutes a residential replat and must conform to the public notice requirements of this Article for residential replats 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 was deed restricted for same within the preceding five years.
 - (b) If the proposed residential replat requires a variance and 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. 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 prior to the close of the public hearing. In computing the percentage of land area, the area of streets and alleys shall be included.
 - (c) Compliance with Subparagraphs (a) and (b) above 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-family or duplex-family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

O. Subdivision: vacating plat.

- (1) *Generally.* This section applies to all plat vacations. The owners of a tract covered by a plat may vacate the plat before any lot is sold or, if lots have been sold, the plat, or any part, may be vacated on the application of all owners of lots in the plat with approval obtained as prescribed for the original plat.
- (2) *Procedures.*
 - (a) *Self-survey and pre-application meeting.* An applicant for vacating plat approval shall complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City.
 - (b) *Application submission, contents and fees.* An applicant shall submit an application in compliance with this Article.

- (c) *Completeness review.* All applicants are required to submit complete applications in compliance with this Article.
 - (d) *Public notice requirements.* Notice by publication or mail is not required for a vacating plat.
 - (e) *Action by the Planning and Zoning Commission.* A vacating plat application is reviewed and decided-upon by the Commission.
 - (f) *Review criteria.* The Commission shall not approve vacating plat unless it meets all requirements of this ordinance and other related City ordinances that apply to the application.
- (3) *Prior dedication of rights-of-way or easements.* If right-of-way or easements were dedicated by the plat subject to the vacation, the following procedures shall be used:
- (a) *No public improvements constructed.* If no public improvements by the City or franchise utility companies have been constructed within the right-of-way and/or easements, the Commission may proceed to take action on the plat vacation request.
 - (b) *Public improvements constructed.* If public improvements by the City or franchise utilities companies do exist within the right-of-way or easements dedicated by the plat, the Commission shall have no authority to approve the vacation request until formal abandonments have been approved by City Council and franchise utilities in accordance with the Mesquite City Code.

P. Subdivision: optional alternate procedure for short form plat.

- (1) *Generally.*
- (a) Short form plat approval allows a simplified procedure for the subdivision of property that: is based primarily on the creation of a limited number of lots; is designed to work with the layout of surrounding properties; and does not require the installation of public infrastructure.
 - (b) A short form plat may be submitted for a proposed development that meets the following criteria:
 - 1. The application does not involve a residential replat under the provisions of Section N of this Article.
 - 2. The plat is approved in the pre-application meeting as capable of review and final decision within the time requirements applicable to action by the Director.
 - 3. The plat is a minor plat or replat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities.

- (2) *Procedures.*
- (a) *Self-survey and pre-application meeting.* An applicant for short form plat shall complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City.
 - (b) *Application submission, contents and fees.* An applicant shall submit an application in compliance with this Article.
 - (c) *Completeness review and staff recommendation.* All applicants are required to submit complete applications in compliance with this Article.
 - (d) *Public notice requirements.* Notice by publication or mail is not required for a short form plat application.
 - (e) *Action by Director.* A short form plat application is reviewed and decided upon by the Director.
 - (f) *Review criteria.* The Director shall not approve a short form plat unless it meets the following criteria:
 - 1. The proposed development must conform with all requirements of this ordinance and other related City ordinances that apply to the application;
 - 2. The proposed development must comply with applicable zoning regulations; and
 - 3. The proposed development must meet all the requirements or conditions of any applicable, related development approvals (such as Regulating Plan or PD).
 - (g) *Appeals.* Appeal from the Director's decision may be made to the Commission in accordance with the appeal procedures in this Article.
 - (h) *Waiver request.* The Director is authorized to approve requests for waiver of required sidewalks in conjunction with short form plat review provided that a sidewalk shall be required unless a connection need (either planned or existing) is clearly shown not to exist.

Q. Subdivision: optional alternate procedure for amending plat.

- (1) *Generally.* An application may not be considered for the optional alternate procedure for an amending plat unless the plat is signed by the applicants only and is solely for one or more of the following purposes:
- (a) To correct error in course or distance;
 - (b) To add any course or distance that was omitted;

- (c) To correct an error in the description of the real property;
 - (d) To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibility for setting monuments;
 - (e) To show the location or character of any monument that has been changed or was incorrectly shown;
 - (f) To correct any other type of clerical error or omission including lot numbers, acreage, street names, and identification of adjacent recorded plats;
 - (g) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the proposed amending plat, neither lot is abolished, the amendment does not attempt to remove recorded covenants or restrictions, and the amendment does not have a material adverse effect on the property rights of the other owners in the plat;
 - (h) To relocate a lot line in order to cure an inadvertent encroachment of a building or other improvement on a lot line or on an easement;
 - (i) To relocate one or more lot lines between one or more adjacent lots where all owners join in the application for the amending plat, provided that the amending plat does not attempt to remove recorded restrictions or covenants and 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 zoning and other regulations are not affected, covenants or restrictions are not removed, and the area is within a residential improvement area; or
 - (k) To replat one or more lots fronting on an existing street if the owners of all those lots join in the application, the amendment does not attempt to remove recorded covenants or restrictions; the amendment does not increase the number of lots, and the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- (2) *Procedures.*
- (a) *Self-survey and pre-application meeting.* An applicant for an amending plat shall complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City.
 - (b) *Application submission, contents and fees.* An applicant shall submit an application in compliance with this Article.

- (c) *Completeness review.* All applicants are required to submit complete applications in compliance with this Article.
- (d) *Public notice requirements.* Notice by publication or mail is not required for an amending plat.
- (e) *Action by Director.* A short form plat application is reviewed and decided upon by the Director.
- (f) *Review criteria.* The Director shall not approve an amending plat unless it meets all of the requirements of this ordinance and other related City ordinances that apply to the application.
- (g) *Notation of intent required.* The following certification shall be shown on all amending plats: "This plat does not increase the number of lots in the previously recorded subdivision nor attempt to alter or remove existing deed restrictions or covenants, if any, on this property."
- (h) *Appeals.* Appeal from the Director's decision may be made to the Commission in accordance with the appeal procedures in this Article.

R. Effect of offers of dedication.

The approval of a plat does not constitute acceptance of a proposed dedication of any property identified on the plat for dedication and does not impose on the City any duty regarding maintenance and improvement of the property until the City makes an actual appropriation of the dedicated property by formal acceptance, entry, use or improvement.

S. Subdivision variance.

- (1) *Purpose.* The subdivision variance process is intended to provide relief from subdivision regulations where undue hardship or physical impossibility would result from the strict application of those regulations. State and/or federal laws or requirements may not be varied by the City.
- (2) *Applicability.* A subdivision variance may be requested under this section. Drainage or access management variances may be requested under the provisions of the Engineering Design Manual.
- (3) *Procedures.*
 - (a) *Application submission and fee.* An applicant shall submit an application and fee on the City's Online Application Portal.
 - (b) *Completeness review.* All applicants are required to submit complete applications in compliance with this Article.
 - (c) *Public notice requirements.* Public notice is required for a subdivision variance.

- (d) *Action by review and decision-making bodies.*
1. *Planning and Zoning Commission – subdivision.* A request for a subdivision variance is heard by the Commission. The Commission may approve or deny a request for subdivision variance, and impose reasonable conditions and limitations of approval in order to further the purposes and intent of this ordinance.
 2. *Consideration by the Planning and Zoning Commission for subdivision variances.* The Commission shall take into account:
 - a. The nature of the proposed use of land involved;
 - b. Existing uses in the vicinity;
 - c. The number of persons who will reside or work in the proposed subdivision;
 - d. The probable effect of such variance upon traffic conditions; and
 - e. The probable effect of such variance upon the public health, safety, and welfare in the vicinity.
 3. *Findings by the Planning and Zoning Commission for subdivision variances.* Before granting a subdivision variance, the Commission must find that:
 - a. There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of the land;
 - b. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, that granting the variance will not be detrimental to the public health, safety, or welfare or injurious to other property in the area; and
 - c. That 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 ordinance.
- (4) *Violation of other ordinances.* Approval of a subdivision variance shall not constitute a violation of any other ordinance of the City.
- (5) *Limitations on approval.* A plat application associated with the approved subdivision variance must be applied for within two years of the approval of the variance. If the applicant fails to file such application within the time period, the

request is automatically denied without prejudice and a new application for variance must be made.

T. Recording the plat; offense.

(1) *Submission.*

- (a) Upon approval of the plat by the Commission or the Director, whichever is applicable, the applicant shall submit an execution package as provided on the City's Online Application Portal, including all applicable fees, county recording fees, and original tax certificates for the property from the City of Mesquite Tax Office and from Dallas or Kaufman County, as applicable. The Applicant shall file two 24" by 36" paper copies of the plat with the Director. The plat must comply with the filing requirements of the county where the property is located.
- (b) The Director shall ensure the plat is fully and correctly executed and shall file the approved plat with the county clerk of the county in which the property is located in accordance with the requirements of state law.
- (c) The Director shall notify the Applicant when the plat has been recorded. One copy of the file-stamped plat shall be available to the Applicant upon request at the Director's Office.

(2) *Offense.*

- (a) It is an offense for a person to circumvent the recording requirements of this section.
- (b) It is an offense for a person to file or cause to be filed for record with the county clerk a proposed plat before the plat is approved and has been endorsed by the Commission chair or the Director in accordance with this ordinance.

I. *Article V, Sections L-M.* Amend Appendix B of the Mesquite City Code, the Mesquite Subdivision Ordinance, as amended, by deleting Section L in Article V in its entirety, renumbering Section M in Article V to Section N in Article V and adding new Sections L and M to Article V to read as follows, said Ordinance and Article in all other respects to remain in full force and effect:

L. Improvements required prior to acceptance of subdivision by the City.

- (1) *Survey monuments.* Survey monuments as prescribed hereinabove shall be placed at all corners as required hereinabove.
- (2) *Street and alley improvements.*
 - (a) The developer shall prepare or have prepared complete engineering plans of streets, alleys, curbs and gutters, storm sewers and drainage structures, water and sanitary sewer improvements for the area covered by the final plat in accordance with the City of Mesquite Engineering Design Manual.

After approval of the plat, plans and specifications, the developer shall cause his contractor to install the facilities in accordance with the approved plans and specifications. The developer shall cause his engineer to design, stake and supervise the construction of such improvements and shall cause his contractor to construct the said improvements in accordance with these regulations. The City Engineer shall inspect the installation of the improvements.

Acceptance of the completed improvements by the City will be after receipt of a one-year maintenance bond from each separate contractor in the amount of 10 percent of the contract price, "AS BUILT" plans for each project in accordance with the City of Mesquite Engineering Design Manual, and a letter stating the contractor's compliance with these regulations.

- (b) Streets and alleys shall be paved in compliance with the City of Mesquite Engineering Design Manual and City of Mesquite Thoroughfare Plan.
- (3) *Storm drainage.* An adequate storm sewer system shall be installed in accordance with the City of Mesquite Engineering Design Manual and all subsequent revisions. Areas subject to flood conditions as established by the City of Mesquite will not be considered for development until adequate drainage has been provided.
- (4) *Water.* All subdivisions shall be provided with an approved water system designed and constructed in accordance with the City's Water Distribution Plan

and City of Mesquite Engineering Design Manual and subsequent revisions. In the corporate limits of the City of Mesquite, all subdivisions shall be connected with the City of Mesquite water supply distribution system unless otherwise approved by the City of Mesquite.

- (5) *Sewer improvements.*
 - (a) All subdivisions shall be provided with an approved sewage disposal system designed and constructed in accordance with the City's Sewer Plan and City of Mesquite Engineering Design Manual and subsequent revisions. In the corporate limits of the City of Mesquite, all subdivisions shall be connected with the City of Mesquite sanitary sewer system unless otherwise approved by the City of Mesquite.
 - (b) In locations where sanitary sewers are not available and where there is no immediate prospect for installation of sanitary sewers, then septic tanks of approved type may be installed in conformity with the rules, regulations and ordinances of the City of Mesquite pertaining to public health, provided that in no case shall septic tanks be installed without the express approval and inspection of the City of Mesquite.
- (6) *As built plans.* The developer or his engineer shall present the City with as built plans for all paving, drainage structures, water mains and sewer mains in accordance with the City of Mesquite Engineering Design Manual.
- (7) *Engineering plan review fees.* In order to defray the administrative costs of review, the Developer shall submit plan review fees with the initial and subsequent engineering plan submissions at the time of submission. See Appendix D for applicable fees.
- (8) *Engineering inspection fee.* In order to defray the administrative costs of inspection, the Developer shall submit an engineering inspection fee prior to the release of engineering plans in the amount shown in the current fee schedule as adopted by the City Council. The engineering inspection fee shall cover site improvements including but not limited to streets, alleys, median improvements, water lines, fittings, valves, fire hydrants, RPZs, sanitary sewer lines, lift stations, manholes, storm sewer lines, drainage structures, bridges, culverts, screening walls and retaining walls, but excludes work within the building footprint, concrete and asphalt parking lots, sidewalks, barrier-free ramps, private landscaping and irrigation.
- (9) *Expiration of engineering plans.* The acceptance of an administratively complete engineering plan submittal application is considered a permit under Texas Local

Government Code, Chapter 245. Said permit shall expire two years after acceptance of administratively complete application unless progress is being made toward completion of the project. If the permit expires, a new engineering plan submittal application will be required under current design standards and ordinances, which shall include submission of additional fees.

M. Withholding improvements until approved.

- (1) The City hereby defines its policy to be that the city will withhold ALL CITY IMPROVEMENTS of whatsoever nature including the maintenance of streets and the furnishing of sewage facilities, water service, fire hydrants and fire lanes from all additions, the platting of which has not been approved by the Commission.
- (2) The Director of Planning and Development Services may withhold the issuing of a street number or building permit for the erection of any building in the City until all requirements of these subdivision regulations have been complied with, including installation of and acceptance by the City of all waterworks, sewage and paving improvements for the area designated.
- (3) No construction work shall begin on the proposed improvements in any proposed subdivision prior to approval of the final plat by the City and filing of such plat with the County Clerk of Dallas County or the County Clerk of Kaufman County, unless expressly authorized by the Director of Planning and Development Services.