

ORDINANCE NO. 5082
Subdivision Text Amendment No. 2023 – 02

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, REVISING THE MESQUITE CITY CODE BY MAKING A SUBDIVISION ORDINANCE TEXT AMENDMENT, STA NO. 2023-02, THEREBY REPEALING AND REPLACING APPENDIX B - SUBDIVISIONS, ARTICLE III (PLATTING REVIEW PROCEDURES) FOR THE PURPOSE OF UPDATING THE CITY'S ORDINANCES REGARDING REVIEW, APPROVAL, AND APPEAL PROCEDURES FOR PLATS DUE TO THE TEXAS LEGISLATURE'S PASSAGE OF HOUSE BILL 3699 ("H.B. 3699") AND HOUSE BILL 14 ("H.B. 14") DURING ITS 88TH REGULAR SESSION; AND REVISING APPENDIX D – COMPREHENSIVE FEE SCHEDULE, SECTION 12-121 (PLANNING AND ZONING FEES), FOR THE SAME PURPOSE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE WITH A FINE NOT TO EXCEED \$2,000; PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, provisions in the Mesquite Subdivision Ordinance are in need of revisions with regard to Appendix B - Subdivisions, Article III (Platting Review Procedures) for the purpose of updating the review, approval, and appeal procedures for plats due to the Texas Legislature's passage of House Bill 3699 ("[H.B. 3699](#)") and House Bill 14 ("[H.B. 14](#)") during its 88th Regular Session; and revising Appendix D – Comprehensive Fee Schedule, Section 12-121 (Planning and Zoning Fees), for the same purpose; and

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas ("**City Council**"), to protect the public health, safety, and welfare; and

WHEREAS, the City of Mesquite, Texas ("**City**"), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072\(a\)](#); and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life, and property, and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government and order and security of the City and its inhabitants, pursuant to Mesquite City Charter, Article III, [Section 2](#); and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life, and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Subchapter A, [§ 54.004](#), as amended; and

WHEREAS, pursuant to Mesquite City Charter, Article III, [Section 28](#), the City Council shall have the power to provide for the enforcement of all ordinances enacted by the City by a fine not to exceed the maximum amount authorized by State law; provided, that no ordinance shall prescribe a greater or less penalty than is prescribed for a like offense by the laws of this State; and

WHEREAS, the City's health and safety ordinances are subject to quasi-judicial enforcement pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Subchapter C, [§ 54.032](#); and

WHEREAS, the repeal and replacement of Article III (Platting Review Procedures) is drafted in accordance with Texas Local Government Code, Title 7, Subtitle A, [Chapter 212](#) (Municipal Regulation of Subdivisions and Property Development); and

WHEREAS, on **OCTOBER 23, 2023**, the City of Mesquite **PLANNING & ZONING COMMISSION** considered the herein described text amendments to the *Mesquite Subdivision Ordinance* and after having given proper public notice and holding a public hearing for the receipt of public comments, the Planning and Zoning Commission *recommended* by majority vote the City Council adopt the text amendments to the Mesquite Subdivision Ordinance, attached as **EXHIBIT A**; and

WHEREAS, after having given proper public notice and holding a public hearing, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code and Mesquite Subdivision Ordinance as herein provided.

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

SECTION 1. Recitals Incorporated.

The City Council hereby finds and determines the recitals made in the preamble of this Ordinance are true and correct, and hereby incorporates such recitals here in the body of this Ordinance as if copied in their entirety.

**SECTION 2. Mesquite Subdivision Ordinance Text Amendment.
Amending Part 1, Section 1-300.**

The Mesquite Subdivision Ordinance is hereby amended by making certain additions and deletions as identified in **EXHIBIT A**, and said Exhibit is attached hereto and made a part hereof, and in all other respects said Subdivision Ordinance, and its parts, and sections shall remain in full force and effect.

**SECTION 3. Mesquite City Code Text Amendment.
Amending Appendix D – Comprehensive Fee Schedule.**

Appendix D – the Comprehensive Fee Schedule of the Mesquite City Code is hereby amended by making certain additions and deletions as identified in **EXHIBIT B**, and said Exhibit is attached hereto and made a part hereof, and in all other respects said Code, and its chapters, articles, divisions, and sections shall remain in full force and effect.

SECTION 4. Conflicts Resolution Clause.

In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 5. Severability Clause.

Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.

SECTION 6. Savings Clause.

An offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Mesquite City Code, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

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SECTION 7. Penalty Clause.

Any violation of the provisions or terms of this Ordinance by any “person,” as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine, or any other general penalties, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended.

SECTION 8. Publication.

This Ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

SECTION 9. Effective Date.

This Ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ON THE 20th DAY OF NOVEMBER 2023.

DocuSigned by:
Daniel Aleman Jr.
D999585317D142B...

Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

DocuSigned by:
Sonja Land
C2518095973F46A...

Sonja Land
City Secretary

DocuSigned by:
David Paschall
666E18891208434...

David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. 5082

City of Mesquite, Texas

MESQUITE CITY CODE
APPENDIX B – SUBDIVISIONS
Article III – Platting Review Procedures

EXHIBIT A TO ORDINANCE NO. 5082; STA 2023-02.
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MESQUITE CITY CODE

* * *

APPENDIX B – SUBDIVISIONS

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ARTICLE III. PLATTING REVIEW PROCEDURES

[Editor's Note: Repeal existing Article III and replace it with the following new provisions.]

A. Purpose and organization of Article.

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

B. Definitions.

- (1) *Complete application* means an application submitted to the City that contains all documents and other information identified on the Plat Checklist.
- (2) *Decision-making authority* means the “regulatory authority” responsible for approving or disapproving a development document.
- (3) *Development document* means a document, including an application for a plat, plan, or development permit, related to the development of or improvement to land that is required by law, ordinance, rule, or other measure to be approved by a regulatory authority in order for a person to initiate, engage in, or complete the development or improvement.
- (4) *Development inspection* means the inspection of an improvement to land required by a regulatory authority as part of a project to develop the land or construct or improve an improvement to the land.
- (5) *Development permit* means a permit required by a regulatory authority to develop land or construct or improve an improvement to land.
- (6) *Plat* means a preliminary plat, final plat, and replat. V.T.C.A. Local Government Code, Chapter 212, Section 212.001. The term also includes a “development plat” under Texas Local Government Code, Chapter 212, Subchapter B.
- (7) *Plat Checklist* means a written list of the required application materials containing all documentation and other information that the City requires to be submitted with a plat application. The required documentation and other information on the Plat Checklist must be related to a requirement authorized under V.T.C.A. Local Government Code, Chapter 212, Subchapter A. The Plat Checklist must be published and maintained on the City’s Internet website.
- (8) *Regulatory authority* means the governing body of a political subdivision, or a department, board, commission, or other entity of the political subdivision, responsible for processing or approving a development document or conducting a development inspection.

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State law references –

Plat defined; V.T.C.A. Local Government Code; Chapter 212, Section 212.001.

Definitions; V.T.C.A. Local Government Code; Chapter 247, Section 247.001.

Complete Application – Required Application Materials; V.T.C.A. Local Government Code; Chapter 212, Section 212.0081.

Plat Checklist – Required Application Materials; V.T.C.A. Local Government Code; Chapter 212, Section 212.0081.

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C. 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 Internet website.
 - (b) *Pre-application meeting recommended.* A pre-application meeting is recommended 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's Internet website.
 - (c) *Pre-application meeting not a filing.* 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.

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D. Application contents and fees.

- (1) *Application contents generally.* The applicant shall complete an application for the approval of a plat. The application must include the information listed on the Plat Checklist, as it exists or may be amended, which shall be established and maintained by the Director and published on the City’s Internet 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; Article XII, Section 12-121 (Planning and zoning fees).
 - (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.

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E. Application submission, filing, and withdraw.

- (1) *Plat submittal calendar.* The Director is authorized to publish on the City's Internet website a plat submittal calendar to be used by an applicant to facilitate compliance with the submission, filing, and approval process. V.T.C.A. Local Government Code, Chapter 212, Section 212.0015, as amended.
- (2) *Complete application required before submission and filing.* All application submissions must be complete prior to official filing and any processing by the City of Mesquite. A complete application includes all documents and other information identified on the Plat Checklist and is accompanied by the applicable fee. V.T.C.A. Local Government Code, Chapter 212, Section 212.0081, as amended.
- (3) *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.
- (4) *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.
- (5) *Submit applications to the Planning Division.* All applications required by this section shall be submitted to the Planning Division, unless otherwise specified. All applications for plats shall be considered 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, weekends, holidays, or other non-business days shall not be considered officially submitted until the next business day following the date the information was initially entered.
- (6) *Officially filed.* A plat application is considered officially filed on the date the applicant is considered to have officially submitted the plat, along with a completed plat application, application fees, and other requirements prescribed by or under this chapter. V.T.C.A. Local Government Code, Chapter 212, Section 212.004, as amended.
- (7) *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.
 - (a) The applicant shall submit a written withdrawal request to the Director, and after withdrawal, the City will not take further action on the application.
 - (b) The application shall be considered terminated and no rights shall vest based on the application.

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- (c) To re-initiate review, the applicant may resubmit the application which shall in all respects be treated as a new application for purposes of review, scheduling, and payment of application fees.

State law references –

Complete application – Required Application Materials; V.T.C.A. Local Government Code; Chapter 212, Section 212.0081.

Approval by municipality required; V.T.C.A. Local Government Code; Chapter 212, Section 212.00

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F. Staff review.

- (1) *Review by other departments and divisions.*
 - (a) In addition to the internal Planning Division review, staff may distribute the filed 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 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 Planning and Zoning Commission (“**Commission**”) as a part of any referral response.
 - (b) Referral agencies shall comment in writing after receiving a filed 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.
- (2) *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:
 - (a) Incorporate the relevant responses and comments from reviewing departments and agencies;
 - (b) Provide a recommendation for application approval, approval with conditions, or disapproval;
 - (c) If the recommendation is for approval with conditions, or disapproval, identify the reasons for conditional approval or disapproval, including the legal basis, and conditions that eliminate any areas of noncompliance; and
 - (d) Provide any other information deemed appropriate.
- (3) *Criteria for staff recommendation.* Staff's recommendation shall be based on the evidence presented and compliance with the applicable standards and review criteria provided in this ordinance or other applicable law.
- (4) *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.
- (5) *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

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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.

G. Public notice requirements.

- (1) *In general.*
 - (a) Applications for development approval shall comply with the Texas Statutes and the provisions of this chapter with regard to public notification.
 - (b) For residential replats, as identified in Section K (Subdivision: additional requirements applicable to replats) of this Article, notice shall be provided in accordance with this section, including written (mailed) notice and published notice.
 - (c) 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.
 - (d) For all plats requiring Planning and Zoning Commission approval, agenda notice shall be posted on a bulletin board accessible to the public and published on the City of Mesquite Internet website a minimum of 72 hours prior to a meeting.
- (2) *Content.* Notices, whether by publication or written (mailed 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 (mailed) 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.

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- (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.

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H. Action by decision-making authority.

- (1) *Delegation of decision-making authority.*
 - (a) *When no public hearing is required.* The Director shall review and make a decision on all plats except for those requiring a public hearing.
 - (b) *When a public hearing is required.* The Planning and Zoning Commission shall review and make a decision on all plats that require a public hearing.
- (2) *Approval by City required.* The decision-making authority of the City must approve a plat or replat that is required to be prepared under Subchapter A (Regulation of Subdivisions) and that satisfies the requirements of the subchapter. See V.T.C.A. Local Government Code, Chapter 212, Subchapter A (Regulation of Subdivisions), Section 212.005.
- (3) *Deadline for initial action on application.* The Director or Commission shall make a decision within 30 days after the date the application is considered officially filed pursuant to this Article. The date the application is considered officially filed is Day Zero (0). A plat is approved by the City unless it is disapproved within the 30-day time period. V.T.C.A. Local Government Code, Chapter 212, Section 212.009, as amended.
- (4) *Action on the application.* The Director or Commission shall take any of the following actions regarding a plat application:
 - (a) Approve; or
 - (b) Approve with conditions; or
 - (c) Disapprove; or
 - (d) The Commission may also, including but not limited to:
 1. Postpone holding the public hearing and consideration of the application to a later date (but not later than 30 days after the date the application is considered officially filed, unless otherwise provided, e.g. Extensions and Waivers); or
 2. Continue an opened public hearing and consideration of the application to a later date (but not later than 30 days after the date the application is considered officially filed, unless otherwise provided, e.g. Extensions and Waivers).
- (5) *Standards for approval.*
 - (a) Pursuant to V.T.C.A. Local Government Code, Chapter 212, Section 212.010, the Director or Commission shall approve a plat if:
 1. It conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities;
 2. It conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality and in its extraterritorial jurisdiction, taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities;

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3. A bond required under Section 212.0106, if applicable, is filed with the municipality; and
 4. It conforms to any rules adopted under Texas Local Government Code, Section 212.002.
- (b) However, the Director or Commission may not approve a plat unless the plat and other documents have been prepared as required by Section 212.0105, if applicable.
- (6) *Approval with conditions (conditional approval).*
- (a) If an application is approved with conditions (also referred to as a conditional approval), the Director or Commission shall include in its decision (or motion) a reference to the specific conditions of approval.
 - (b) The Director or Commission may approve a plat with the following conditions:
 1. Installation of public improvements by the applicant in accordance with the Mesquite Engineering Design Manual and approval of the public improvements by the City Engineer;
 2. Submittal flood study in accordance with the Mesquite Engineering Design Manual and approved by the City Engineer;
 3. Submittal Engineering Plans in accordance with the Mesquite Engineering Design Manual and accepted by the City Engineer;
 4. Submittal a Traffic Impact Analysis in accordance with the Mesquite Engineering Design Manual and accepted by the Manager of Traffic Engineering; and
 5. Submittal of any other application or submittal required by regulations applicable to the plat application.
 - (c) The applicant shall be provided with a written statement of the conditions for the conditional approval that clearly articulates each specific condition for the conditional approval. V.T.C.A. Local Government Code, Chapter 212, Section 212.0091, as amended. Each condition or reason specified in the written statement may not be arbitrary and must:
 1. Be directly related to the requirements under this Article and Subchapter A of Texas Local Government Code, Chapter 212; and
 2. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable.
 - (d) Upon approval with conditions, no later than the end of the next business day after the date of the decision, staff shall provide the conditions to approval to the applicant in a written statement by email or on the City's Online Application Portal.

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(7) *Disapproval.*

- (a) If an application is disapproved, the Director or Commission shall include in its decision (or motion) a reference to the specific reasons for disapproval.
- (b) The applicant shall be provided with a written statement of the reasons for disapproval that clearly articulates each specific reason for disapproval. V.T.C.A. Local Government Code, Chapter 212, Section 212.0091, as amended. Each reason specified in the written statement may not be arbitrary and must:
 - 1. Be directly related to the requirements under this Article and Subchapter A of Texas Local Government Code, Chapter 212; and
 - 2. Include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable.
- (c) Upon disapproval, no later than the end of the next business day after the date of the decision, staff shall provide the reasons for disapproval to the applicant in a written statement by email or on the City's Online Application Portal.

(8) *Response Review Application – Response by applicant to Approval with Conditions or Disapproval – Response Review Application.*

- (a) The applicant may apply to the City with a response to the approval with conditions or disapproval by filing a Response Review Application on the City's Online Application Portal that satisfies each condition of approval or remedies each reason for disapproval.
- (b) The application shall include the response letter, the revised plat, the response review fee, and any additional submittal requirements applicable.
- (c) The applicant's disapproval of any condition to approval constitutes the City's continuing disapproval of the plat application.
- (d) The applicant's disapproval to a reason for disapproval constitutes the City's continuing disapproval of the plat application.
- (e) See V.T.C.A. Local Government Code, Chapter 212, Sections 212.0093; and 212.0095.

(9) *Action on Response Review Application.*

- (a) *Review.* The Response Review Application shall be scheduled for the Director or Commission's consideration.
- (b) *Deadline.* The Director or Commission shall approve or disapprove a response to approval with conditions or disapproval not later than the 15th day after the date the Response Review Application (including fee) was officially filed.
- (c) *Procedures.* If a Response Review Application is approved, approved with conditions, or disapproved, the Director or Commission shall follow the same procedure for action on an initial application.
- (d) *Final action.* A plat previously approved with conditions or disapproved shall be approved if the response adequately addresses each condition of the conditional approval or each reason for the disapproval.

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- (e) *Approval by default.* A plat previously approved with conditions or disapproved is deemed approved if the applicant filed a response that meets all the requirements (i.e. adequately addresses each condition of the conditional approval or each reason for the disapproval); and the City does not disapprove the plat on or before the 15th day after the date the Response Review Application (including fee) was officially filed. V.T.C.A. Local Government Code, Chapter 212, Section 212.0095.

I. Extensions and waivers.

- (1) *Extensions.* The applicant and/or City may extend the 30-day period for one or more periods (each period not to exceed 30-days) if:
 - (a) Under Chapter 2007, V.T.C.A. Government Code, requires the City to perform a takings impact assessment in connection with the plan or plat; or
 - (b) Both the applicant and City agree to the extension in writing.
 - 1. *Applicant.* An applicant may request an extension of the 30 day action deadline by providing a written request on the City's Online Application Portal. Each extension period request shall not exceed 30 days.
 - 2. *City.* The City may request an extension of the 30 day action deadline by providing a written request to the applicant. Each extension period request shall not exceed 30 days.
 - (c) SEE V.T.C.A. Local Government Code, Chapter 212, Section 212.009.
- (2) *Waivers.*
 - (a) *Applicant.* 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.
 - (b) *City's response.* The Director shall provide a written response to the waiver request which shall provide the new deadline, if any, requested by the applicant.
 - (c) *City shall not request or require a waiver.* The City may not request or require an applicant to waive a deadline or other approval procedure.
 - (d) See V.T.C.A. Local Government Code, Chapter 212, Section 212.0097; and Chapter 247, Section 247.005.

State Law references –

Extensions; V.T.C.A. Local Government Code, Chapter 212, Section 212.009, as amended.

Waivers; V.T.C.A. Local Government Code, Chapter 247, Section 247.005, as amended.

EXHIBIT A TO ORDINANCE NO. 5082; STA 2023-02.
Amendments to Appendix B – Subdivisions; Article III - Platting Review Procedures.
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J. Subdivision: plat or replat.

- (1) *In 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. The 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) *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.
- (5) *Procedures.*
 - (a) *Self-survey and pre-application meeting.* It is recommended that an applicant for plat or replat approval complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City. SEE Section C (Self-survey and pre-application meeting).
 - (b) *Application contents and fees.* An applicant shall complete an application in compliance with this Article. SEE Section D (Application contents and fees).
 - (c) *Application submission, filing, and withdraw.* An applicant shall submit, file, or withdraw an application in compliance with this Article. SEE Section E (Application submission, filing, and withdraw).
 - (d) *Public notice requirements.* Notice by publication or mail is not required for a plat or replat application unless it is a residential replat as described in Section K (Subdivision: additional requirements applicable to replats) of this Article.
 - (e) *Action by the Planning and Zoning Commission or Director.* A plat or replat application is reviewed and decided-upon by the Commission or Director.

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- (f) *Review criteria.* The Commission or Director shall not approve a 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 long-range planning documents;
 3. The proposed development is in compliance with applicable zoning regulations;
 4. The proposed development conforms with the latest adopted Master Thoroughfare Plan and related street standards;
 5. 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;
 6. The proposed development conforms with adopted federal, state, county, and City storm water management regulations;
 7. The proposed development conforms to the requirements of the Engineering Design Manual;
 8. Required public improvements have been constructed and approved by the City; and
 9. A dedication instrument is complete and signed.

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EXHIBIT A TO ORDINANCE NO. 5082; STA 2023-02.
Amendments to Appendix B – Subdivisions; Article III - Platting Review Procedures.
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K. 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 a 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.

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EXHIBIT A TO ORDINANCE NO. 5082; STA 2023-02.
Amendments to Appendix B – Subdivisions; Article III - Platting Review Procedures.
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L. Subdivision: vacating a 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.* It is recommended that an applicant seeking approval for vacating a plat complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City. SEE Section C (Self-survey and pre-application meeting).
 - (b) *Application contents and fees.* An applicant shall complete an application in compliance with this Article. SEE Section D (Application contents and fees).
 - (c) *Application submission, filing, and withdraw.* An applicant shall submit, file, or withdraw an application in compliance with this Article. SEE Section E (Application submission, filing, and withdraw).
 - (d) *Public notice requirements.* Notice by publication or mail is not required for vacating a plat.
 - (e) *Action by the Director.* An application to vacate a plat is reviewed and decided-upon by the Director.
 - (f) *Review criteria.* The Director shall not approve vacating a 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 Director 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 Director shall have no authority to approve the plat vacation request until formal abandonments have been approved by City Council and franchise utilities in accordance with the Mesquite City Code.

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M. 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 applicant 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.* It is recommended that an applicant for an amending plat complete a self-survey and attend a pre-application meeting. The schedule for pre-application meetings is available from the City. SEE Section C (Self-survey and pre-application meeting).

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P&Z Commission Meeting Date: 10-23-2023 | City Council Meeting Date: 11-20-2023

- (b) *Application contents and fees.* An applicant shall complete an application in compliance with this Article. SEE Section D (Application contents and fees).
- (c) *Application submission, filing, and withdraw.* An applicant shall submit, file, or withdraw an application in compliance with this Article. SEE Section E (Application submission, filing, and withdraw).
- (d) *Public notice requirements.* Notice by publication or mail is not required for an amending plat.
- (e) *Action by Director.* A 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 City Council in accordance with the appeal procedures in this Article. SEE Section R (Appeals to the City Council).

N. 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.

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Amendments to Appendix B – Subdivisions; Article III - Platting Review Procedures.
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O. 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

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- 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.

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P&Z Commission Meeting Date: 10-23-2023 | City Council Meeting Date: 11-20-2023

P. Recording the plat; offense.

(1) *Submission.*

- (a) Upon approval of the plat by the Commission or the Director, whichever is applicable, and fulfillment of all conditions of approval, 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.

Q. Third-party review.

- (1) If a regulatory authority does not approve, conditionally approve, or disapprove a development document by the 15th day after the date prescribed by a provision of this Article for the approval, conditional approval, or disapproval of the document, any required review of the document may be performed by a person (third-party) in accordance with V.T.C.A. Local Government Code, Chapter 247 (Third-Party Review of Development Documents and Inspection of Improvements).
- (2) If a regulatory authority does not conduct a required development inspection by the 15th day after the date prescribed by a provision of this Article for conducting the inspection, the inspection may be conducted by a person (third-party) in accordance with V.T.C.A. Local Government Code, Chapter 247 (Third-Party Review of Development Documents and Inspection of Improvements).

State law reference –

Third-Party Review of Development Documents and Inspection of Improvements; V.T.C.A. Local Government Code, Chapter 247.

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R. Appeals to the City Council.

- (1) In accordance with Texas Local Government Code, Chapter 247, Section 247.006 (Appeal) as amended, a person may appeal to the City Council:
 - (a) A decision to conditionally approve or disapprove a development document made by the regulatory authority for the City, or a person authorized by Texas Local Government Code, Section 247.002(a) as amended, to perform the review of the document; or
 - (b) A decision regarding a development inspection conducted by the regulatory authority, or a person authorized by Texas Local Government Code, Section 247.002(b) to perform the inspection.
- (2) A person must file an appeal under this section not later than the 15th day after the date the decision being appealed is made. The date of decision is considered Day Zero (0).
- (3) If the City Council hearing the appeal does not affirm the decision being appealed by a majority vote on or before the 60th day after the date the appeal is filed:
 - (a) The development document (e.g. plat) that is the subject of the appeal is considered deemed approved; or
 - (b) The development inspection that is the subject of the appeal is deemed waived.

State law reference – Appeal; V.T.C.A. Local Government Code, Chapter 247, Section 247.006.

EXHIBIT B

To Ordinance No. 5082

City of Mesquite, Texas
Mesquite City Code, Appendix D – Comprehensive Fee Schedule,
ARTICLE XII – Planning and Development Services;
Section 12-121. – Planning and zoning fees.

EXHIBIT B TO ORDINANCE NO. 5082
Mesquite City Code. Appendix D – Comprehensive Fee Schedule.
Article XII – Planning and Development Services.
City Council Meeting Date: November 20, 2023

MESQUITE CITY CODE

* * *

APPENDIX D – COMPREHENSIVE FEE SCHEDULE

* * *

ARTICLE XII. – PLANNING AND DEVELOPMENT SERVICES FEES.

* * *

[Editor’s Note: Make the following revisions with additions identified in green font and underlined and deletions identified in ~~red font with strikethrough~~.]

Sec. 12-121. Planning and Zoning fees.

Annexation petition.....\$2,000.00

Change of zoning.....\$1,000.00

Additional per acre above one acre.....\$15.00

Change of zoning planned development.....\$1,250.00

Additional per acre above one acre.....\$15.00

Conditional use permit ("CUP").....\$1,000.00

Low impact CUP.....\$800.00

Low impact CUP fee applies when all of the following are met:

- 1) The use would be in an existing building.
- 2) The parcel is three acres or less in area.
- 3) No portion of the parcel is within 100 feet of a residential district.
- 4) The use does not include any outdoor display or storage.

Home occupation registration.....\$50.00

~~Miscellaneous planning appeals.....\$300.00~~

Appeals of administrative decisions to the City Council:

Appeals regarding development documents (as defined in Appendix C - MZO; Sec. 6-102).....\$500.00

Appeals regarding development inspections (as defined in Appendix C - MZO; Sec. 6-102).....\$500.00

Pre-application meeting.....\$50.00

Site plan staff approval.....\$600.00

Site plan Planning and Zoning and/or Council approval.....\$800.00

Façade plan.....\$250.00

Landscape plan.....\$250.00

Resubmission of any site plan, landscape plan, or façade plan requiring Planning and Zoning Commission approval resubmitted within five days of scheduled Planning and Zoning Commission meeting shall pay the same fee that was paid with initial application.

Revised site plan, landscape plan, or façade plan.....\$300.00

EXHIBIT B TO ORDINANCE NO. 5082
Mesquite City Code. Appendix D – Comprehensive Fee Schedule.
Article XII – Planning and Development Services.
City Council Meeting Date: November 20, 2023

Comp plan amendment.....\$1,000.00

Subdivision/plan (except short form plats):

 Long form plat or replat:

 Up to one acre (base fee).....\$500.00

 Additional per acre above one acre.....\$25.00

 Amending plat:

 Five acres or greater.....\$500.00

 Less than five acres.....\$300.00

 Plat vacation.....\$500.00

 All other plats.....\$500.00

 Short form plat:

 Five acres or greater.....\$500.00

 Less than five acres.....\$300.00

 Single-family residential (SFR), infill development plat fee.....\$300.00

Plat resubmittal of any plat requiring Planning and Zoning Commission approval resubmitted within five days of a scheduled Planning and Zoning Commission meeting shall pay the same fee that was paid with the initial application.

All other plat resubmittals.....\$300.00

Subdivision variance.....\$500.00

Utility available letter.....\$200.00

Water line extension variance.....\$300.00

Zoning ordinance text amendment.....\$1,000.00

Zoning verification letters.....\$50.00

Document recording fee for documents:

 First page.....\$30.00

 Each additional page.....\$6.00

Document recording fee for plats and other large format documents:

 First sheet.....\$70.00

 Each additional sheet.....\$70.00

(Ord. No. 4702, § 1(Exh. A), 8-19-19; Ord. No. 4723, § 1(Exh. A), 9-16-19; Ord. No. 4764, § 1, 3-2-20)

* * *