

ORDINANCE NO. 09062022

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF ELKHART, TEXAS, ESTABLISHING REGULATIONS FOR SUBDIVISIONS FOUND BOTH INSIDE THE CITY LIMITS AND WITHIN THE CITY'S EXTRA-TERRITORIAL JURISDICTION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Elkhart, Texas is a Type-A general law municipality organized and existing pursuant to the laws of the State of Texas; and

WHEREAS, Local Texas Government Code Chapter 212 provides a municipality, such as Elkhart, the authority to adopt rules governing plats and subdivisions of land in order to promote the health, safety, morals, and general welfare of the municipality; and

WHEREAS, the City Council for the City of Elkhart finds that the regulations found herein will promote the health, safety and welfare of its citizenry and those within the City's extra-territorial jurisdiction by mandating uniform guidelines for the subdivision of property.

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

**ARTICLE I
GENERAL PROVISIONS**

A. Title. This ordinance shall be known, cited and referred to as "The Land Subdivision Regulations of the City of Elkhart, Texas."

B. Adoption of Legislative Grants of Power. All state constitutional and statutory authority and any amendments thereto, are hereby adopted, and the provisions of this ordinance are adopted in exercise of the power granted to municipalities by such legal authority. Specifically, but not by way of limitation, the City Council shall have the power to bring suit in a court of competent jurisdiction to enjoin or abate any violation of a restriction contained or incorporated by reference in a duly recorded plan, plat, replat or other instrument affecting a subdivision within the boundaries provided by law, to the fullest extent permitted, to be uniformly applied and enforced as provided therein. Further, the City Council specifically requires that any plan, plat, replat, or other instrument required by law be submitted to the City Council for approval prior to recording.

C. Purpose. This ordinance is to provide for the orderly, safe, healthful and harmonious development of the city, and for the coordination of streets within the subdivisions and other existing or planned streets for access to and extension of public utility facilities; for adequate open spaces for traffic, recreation, light and air; and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, morals, and the general welfare of the City.

D. Scope and Jurisdiction. After the date of adoption of this Ordinance before any plan, plat or replat of a subdivision or addition of land inside the City or within the extra-territorial jurisdiction of the City shall be recorded with the county clerk, it shall be first approved by the City Council in conformance with the provisions of this ordinance. The filing of any plan, plat or replat without complying with the requirements of this ordinance, or the transfer of land by filing of any instrument in the nature of a conveyance without having first complied with the requirements of this ordinance, shall be deemed a violation of the provisions of this ordinance.

E. City Participation in Cost.

1. Subject to a costs sharing agreement concerning the provision of utilities that may be entered into between the City and subdivider, the subdivider will be required to install, at his own expense, all water lines, streets, sewer lines, natural gas lines, electrical distribution, storm sewer lines and drainage facilities and structures within the subdivision in accordance with the City's standards governing the same and as set forth herein, including all engineering costs covering design, layout, and construction.
2. There will be no participation by the City in the cost of any of the underground utility lines or drainage facilities within the subdivision except, at the discretion of the City, the requirement to oversize lines to serve land areas and improvements beyond the subdivision in question or to serve other subdivisions.

ARTICLE II DEFINITIONS

For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Any office referred to in this ordinance by title means the person employed or appointed by the City in that position, or duly authorized representative. Definitions not expressly prescribed herein are to be construed in accordance with customary usage in municipal planning and engineering practices.

Building setback line. The line within a property defining the minimum horizontal distance between a building and the adjacent street line.

Crosswalk way. A public right-of-way, ten (10) feet or more in width between property lines which provides pedestrian circulation.

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

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

Engineer. A person duly authorized under the provisions of the Texas Engineering Registration Act, as heretofore or hereafter amended, to practice the profession of engineering.

Lot. An undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

Official Filing Date. An application or plat shall be deemed filed with the City on the date that the designated building official determines that the application and all supporting documents have been submitted and meet the requirements of this ordinance and/or other applicable ordinances, except for any variances requested in writing by the applicant. This shall constitute the filing date. Thereafter, the plat shall be scheduled for review by the City Council.

Pavement width. The portion of a street available for vehicular traffic; where curbs are laid, it is the portion measured back to back of curb.

Standards and specifications. The standards and specifications for streets and alleys, storm sewer lines and appurtenant structures, and rules and regulations governing the construction of sanitary sewers as included in this ordinance, and those promulgated from time to time by the city engineer in accordance with this ordinance.

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

- (1) An arterial street primarily provides vehicular circulation to various sections of the City.
- (2) A collector street primarily provides circulation within neighborhoods, to carry traffic from minor streets to arterial streets, or to carry traffic through or adjacent to commercial or industrial areas.
- (3) A marginal access street is a street which is parallel and adjacent to an arterial street, which primarily provides access to abutting properties and protection from through traffic.
- (4) A minor street is one used primarily for access to abutting residential property.

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

Subdivision. A division of any of any lot, tract, or parcel of land into two or more lots for the purpose, whether immediate or future, of offer, sale, or lease or for the purpose of development situated within the corporate limits, or within the extraterritorial jurisdiction of the City as established by state statute, for the purpose of laying out any subdivision of any tract of land or any addition of any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parts or other portions intended for public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto. "Subdivision"

includes resubdivision, but it does not include the division of land for agricultural purposes in parcels or tracts of five acres or more and not involving any new street, alley or easement of access.

Utility easement. An interest in land granted to the City, to the public generally, and/or to a private utility corporation, for installing or maintaining utilities across, over or under private land, together with the right to enter thereon with machinery and vehicles necessary for the maintenance of said utilities.

ARTICLE III

FLOOD HAZARD AREA REGULATIONS APPLICABLE TO SUBDIVISIONS

The floodplain map of Anderson County and FEMA shall be applicable to all subdivisions which are proposed for approval.

ARTICLE IV

PLAT PREPARATION AND APPROVAL PROCEDURES

A. Preliminary conference. Prior to the official filing of a preliminary plat, the subdivider should consult with and present a proposed plan of subdivision to the utilities director for comments and advice on the procedures, specifications and standards required by the City for the subdivision of land.

B. Review and Submission of plans.

1. Once the utilities director has determined a proposed plan of subdivision meets all of the City's standards, the applicant may submit for review one print of the preliminary plat to the city secretary and the City's designated building official. A preliminary plat cannot be filed unless and until the City's designated building official has approved the preliminary plat for compliance with all of the City's standards for the subdivision of land.
2. The city engineer, or an engineer approved by the City, shall review all proposed plans of subdivision in relation to the submitted preliminary plat and the plat shall not be considered filed until all comments on the proposed plan of subdivision have been resolved.
3. After approval by the city engineer, one set of prints of the preliminary plat shall be submitted to the utilities director and one set to the building official for their review and approval or disapproval. If the preliminary plat is approved by the utilities director and building official for compliance with all city procedures and requirements, it shall then be submitted to the City Council for final approval, approval with conditions, or disapproval within thirty (30) days after the official filing date.

C. Rough Proportionality.

1. Prior to a decision by the planning and zoning commission or city official on an application for plat approval or any other application for which an exaction requirement is approved as a condition of approval, the city engineer shall prepare a

written statement affirming that each exaction requirement to be imposed as a condition of plat approval or permit approval is roughly proportionate to the demand created by the subdivision or development on the applicable public facilities system of the City, taking into consideration the nature and extent of the development proposed.

2. Based upon the proportionality determination, the city engineer shall affirm that the exaction requirements of this or other ordinance requiring a permit, as applied to the proposed subdivision or development, do not impose costs on the applicant for public infrastructure improvements that exceed those roughly proportionate to the impact of the proposed subdivision or development.
3. The city engineer may require that the applicant, at its expense, submit any information or studies that may assist in making the proportionality determination.

ARTICLE V PRELIMINARY PLAT

A. This preliminary plat shall include the following information and data (it shall be drawn on a scale of one-inch equals 200 feet or greater):

1. Proposed subdivision name, or identifying title, and the name of the city if located within the city limits, county and state in which the subdivision is located.
2. Name, address of record owner, subdivider, engineer, surveyor, land planner or any other designer responsible for the survey and design.
3. Location of boundary or property lines; width and location of platted streets, alleys and easements within or adjacent to the property being subdivided; present physical features on the land, including natural and artificial watercourses, ditches, ravines, culverts, bridges, present structures and any other features directly pertinent to the land being subdivided; location of any existing utilities of sewer and water mains and drainage facilities; outline of any existing wooded areas. In instances where a serious drainage problem would require a detailed study in order to determine the manner in which drainage of the proposed subdivision may properly be provided in consonance with a comprehensive drainage plan for a larger area of the city, the building official may require a topographic map of the area proposed to be subdivided to accompany the preliminary plat. Contour intervals of the map shall not be greater than one foot with all grades shown thereon tied to U.S. Coastal and Geodetic Survey mean sea level datum. The description of the property shall include the approximate acreage.
4. The preliminary plat shall show the street system design, location and width of the proposed streets, easement and alleys, building lots and other features and their relationship to streets, alleys and easements in adjacent subdivisions. If there are no adjacent subdivisions thereto, a vicinity or location map, drawn at a smaller scale, shall be submitted along with the preliminary plat, this map to show the boundaries and ownership of adjacent properties; the location and distance to the nearest subdivisions; and the manner in which the streets, alleys, easements and highways of

the proposed subdivision may eventually connect with those of the nearest existing subdivisions.

5. Classification and designation of the intended uses of land within the subdivision proposed, setting out residential, retail business, industrial, off-street parking and all other parcels of land intended to be dedicated to public use, such as schools, parks and playgrounds, and any other special uses or semipublic uses.
6. Date, north point and scale of the drawing or subdivision layout.
7. (i) Preliminary plan of proposed water distribution system.
(ii) Preliminary plan of proposed sewage collection system.
(iii) Preliminary plan for on-site and off-site drainage.
8. Preliminary plan for proposed street system. Where the preliminary plat submitted for approval covers only a part, a unit or increment of the owner's or subdivider's entire holding or ultimate subdivision, a sketch of the prospective future street system and land use plan of the unsubmitted part shall be furnished and the street system portion submitted for approval will be considered in light of adjustments and connections with the street system of the part not submitted.

B. Preliminary Plat Approval Procedures:

1. Upon the official filing of the preliminary plat and other information the City Council shall render a decision within thirty (30) days from the filing date.
2. If the City Council determines that the plat is in proper form and in compliance with all city procedures and requirements, including the provisions of this article, it shall act to approve the plat.
3. If the City Council determines that the plat is not in compliance with all city procedures and requirements, including the provisions of this article, it shall act to conditionally approve or disapprove the plat. After the conditional approval or disapproval of a plat, the subdivider may submit a written response that satisfies each condition for the conditional approval or remedies each reason for the disapproval. The utilities director and building official shall review any submitted revisions that were required and schedule the preliminary plat for review by the City Council, which shall determine whether to approve or disapprove the subdivider's previously conditionally approved or disapproved preliminary plat.
4. It is to be understood that the approval of the preliminary plat does not constitute official acceptance of the proposed subdivision by the City, but does constitute an authorization to begin and proceed with the preparation of the final subdivision plat. There shall be no construction work done on the proposed subdivision until the final plat has been approved and accepted and the instrument recorded in the office of the county clerk, except and unless upon the written approval of the City Council.

Approval of the preliminary plat expires at the expiration of a period of six (6) months unless the final plat has been submitted for approval.

ARTICLE VI FINAL PLAT AND CONSTRUCTION PLANS

A. The final plat shall be clearly and legibly drawn to a scale not smaller than one-inch equals 100 feet on a sheet 24 inches by 36 inches in size. All figures and letters shown thereon shall be plain, distinct and of sufficient size that they can be easily read. Should more than one sheet be required for the layout, there shall be included with the several large-scale drawings a key map showing the entire subdivision, drawn at a smaller scale, with block numbers, and street names, this key map to be included upon the first sheet or separately upon a cover sheet of the same size as the large-scale sheets.

B. The final plat shall show or be accompanied by the following information:

1. The subdivision name or identifying title and the name of the city, if located within the city limits, county and state in which the subdivision is located; the name and address of the record owner or subdivider.
2. The name or names of adjacent subdivisions; names of streets; the number of lots and blocks, the same to be in accordance with a systematic, consecutive numbering arrangement. Names of new streets should, wherever possible, follow or be extensions of existing street names.
3. An accurate metes and bounds boundary survey of the property which is being subdivided, noting the bearings and distances of the sides, same being referenced to an original corner of the survey of which it is a part, showing the lines of all adjacent lands and properties; lines of adjacent streets, alleys and easements, noting width and names of each. Streets, alleys and easements of adjacent subdivisions shall be shown in a different manner than those of the proposed subdivision, preferably dotted or dashed.
4. The final plat shall indicate the location of all lots, streets, highways, alleys, easements, parks, playgrounds and such other features, with accurate dimensions given in feet and decimals of a foot, showing the length of radii, deflection angles, and of arcs of all curves; tangent distances and tangent bearings shall be given for each street, all such data being complete and sufficiently precise to permit accurate location upon the ground.
5. Construction plans for all utilities such as:
 - (i) Proposed water distribution system.
 - (ii) Proposed sewage collection system.
 - (iii) Plan and profile of proposed streets.


- (iv) Plans and profiles on-site and off-site proposed drainage facilities. A letter shall be required from the city engineer stating that plans for drainage of the subdivision are approved.
- 6. The building lines of front and side streets shall be shown dotted or dashed, and the location of utility easements shall be shown in dashed lines.
- 7. The plat shall bear a properly executed dedication of all streets, highways, alleys, parks and playgrounds and other lands intended for use of the public, such dedicatory instrument to be signed by the owner, or owners, and by all other persons or parties having a mortgage or lien interest in the property. Property restrictions for the subdivision shall be filed with the plat.
- 8. Tax certificates shall accompany the plat, indicating that all taxes have been paid.
- 9. Proper certification shall be made upon the plat, by a reputable, registered engineer or land surveyor, ascertaining that the plan represents a survey made by him and that all necessary monuments are accurately and correctly shown upon the plat. The engineer shall place such monuments as required by the City and they shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines and points of curve and at such intermediate points in street lines and points of curve and at such intermediate points as shall be required by the City. All lot corners are also to be marked with iron pipe markers driven firmly into solid earth. Such monuments shall be of iron pipe not less than three-quarters of an inch in diameter and two feet in length, driven securely into solid earth with the grades of same being at grade with established sidewalk or, if walk is not established, flush with natural grade of the earth's surface.
- 10. Date, scale and north point.
- 11. After approval of the plat by the building official, utilities director and city engineer, one white background, blue-line print and a reproducible negative print shall be furnished to the City Council along with five (5) conforming copies.
- 12. The following certificates shall be included on the final plat:
 - (i) Certification by a registered professional civil engineer and notarized, or licensed land surveyor to the effect that the plat represents a survey made by him or under his direct supervision and that all the monuments shown thereon actually exist, and that their location, size and material are correctly shown.
 - (ii) A certificate of ownership and dedication of all streets, alleys, easements, parks, and playgrounds to public use in perpetuity, signed and acknowledged before a notary public by the owner and lienholder of the land, and a complete and accurate description of the land subdivided and the streets dedicated.
 - (iii) The following certificate shall be placed on the plat, in a manner that will allow the filing in of the certificate by the proper party:

Recommended for Final Approval

Building Official
City of Elkhart, Texas

Date: _____

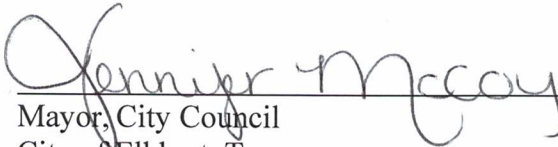
Recommended for Final Approval



Utilities Director
City of Elkhart, Texas

Date: _____

Approved and Accepted



Mayor, City Council
City of Elkhart, Texas

Date: 9/16/2022

The undersigned, the County Clerk of Anderson County, Texas, hereby certifies that the foregoing final plat of the Subdivision or Addition to Anderson County was submitted to the City Council on the _____ day of _____, 20____, and the City Council, by formal action, then and there accepted the dedication of streets, alleys, parks, easements, and public places, as shown and set forth in and upon said plat, and said City Council further authorized the Mayor to note the acceptance thereof by signing his/her name as hereinabove subscribed.

Witness my hand this _____ day of _____, 20____.

County Clerk, Anderson County, Texas

- (iv) Certificate showing that all taxes and fees have been paid on the tract to be subdivided.
- (v) Water main approval: Each plat filed with the City Council for approval as to land located within or outside the city limits shall contain the following certificate executed by the utilities director:

I certify that the plat on which this certificate is typed shows the proposed location and size of water mains, and that the same has been approved by this office as to location and size.



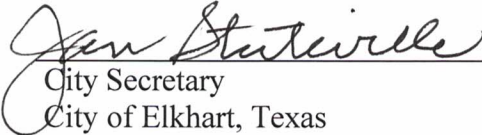
Utilities Director
City of Elkhart, Texas

- (vi) The owner or developer of the proposed subdivision shall file a performance bond which he procures from the contractor approved by the City Council and the city attorney as to form and surety and sureties on such bond, guaranteeing the completion of such improvements as are required to be constructed by the owner or developer under city policies in effect and as required by this ordinance. Such bond shall be in an amount equal to the estimated cost of all improvements to be placed in the subdivision by the owner or developer. The estimated cost and amount of the bond shall be approved by the city engineer. Such bond shall be payable to the City and shall guarantee completion of all required improvements within two (2) years from the date of final approval of such plat. Where, for good cause shown to the satisfaction of the City Council, the developer or owner has not completed the required site improvements within two (2) years from the date of final approval of the plat, the City Council may grant additional time, not to exceed one (1) year, within which to complete said improvements. No such extension shall be granted unless the developer or owner has filed new security in conformance with the conditions applied to the original bond. All bonds shall be kept in the custody of the city secretary. Bonds shall be released to the principal and/or surety only after all the subdivision requirements have been fulfilled or the money sum of the bond or the amount of the work required yet to be finished has been paid to the City. The city engineer shall certify to the city secretary that all the required work has been accepted and completed. In the event that a money settlement is paid to the City in lieu of performing the required work, the city engineer shall certify to the city secretary that such sum is adequate compensation and that in his opinion the bond should be released.

- (vii) The following form shall be used in releasing subdivision bonds and signed by the city secretary:

NAME OF PRINCIPAL:
NAME OF SURETY(IES):
NAME OF SUBDIVISION:

This is to certify that all requirements of the City of Elkhart, Texas, concerning the above-named subdivision have been met and such bond is hereby released to the above designated principal and surety(ies).



City Secretary
City of Elkhart, Texas

(SEAL)

- (viii) The developer of any plat shall obtain from the holder of any private easement or fee strip within the plat crossed by proposed street, alley, or other public easements an instrument granting to other public easements an instrument granting to the public the use of said public streets, alleys, or easements over and across said private easements or fee strips for construction, operation and maintenance of those public facilities normally using the type of public streets, alleys, and easements indicated. A signed copy of this instrument shall be delivered to the City Council and the original shall be filed for record along with the plat.
- (ix) The developer shall furnish the City Council with a letter from the holder of the private easement or fee strips in question, stating that arrangements for any required adjustments in pipelines, electrical transmission lines, or other similar facilities have been made to the satisfaction of the holder of the easement or fee strip.

C. Final Plat Approval Procedures.

1. Once the utilities director has determined a proposed plan of subdivision meets all of the City's standards, the applicant may submit for review one print of the final plat to the city secretary and the City's designated building official. A final plat cannot be filed unless and until the City's designated building official has approved the final plat for compliance with all of the City's standards for the subdivision of land.
2. The city engineer, or an engineer approved by the City, shall review all proposed plans of subdivision in relation to the submitted final plat and the plat shall not be considered filed until all comments on the proposed plan of subdivision have been resolved.

3. After approval by the city engineer, one set of prints of the final plat shall be submitted to the utilities director and one set to the building official for their review and approval or disapproval. If the final plat is approved by the utilities director and building official for compliance with all city procedures and requirements, it shall then be submitted to the City Council for final approval, approval with conditions, or disapproval within thirty (30) days after the official filing date.
4. If the City Council determines that the plat is in proper form and in compliance with all city procedures and requirements, including the provisions of this article, it shall act to approve the plat.
5. If the City Council determines that the plat is not in compliance with all city procedures and requirements, including the provisions of this article, it shall act to conditionally approve or disapprove the plat. After the conditional approval or disapproval of a plat, the subdivider may submit a written response that satisfies each condition for the conditional approval or remedies each reason for the disapproval. The utilities director and building official shall review any submitted revisions that were required and schedule the final plat for review by the City Council, which shall determine whether to approve or disapprove the subdivider's previously conditionally approved or disapproved final plat.
6. On approval of the final plat, said final plat being otherwise fully and properly endorsed, the mayor and city secretary shall certify in writing said approval.
7. Final approval will expire one (1) year after the City Council action granting approval of any plat unless the plat has been filed for record.
8. After final approval has been obtained, but prior to the recording of the plat, two (2) prints of the corrected plat shall be furnished to the City Council at the developer's expense.
9. The developer shall require performance and payment bonds from the contractor for 100% of the cost of improvements, and shall assign them to the City upon completion of construction. The developer shall also provide to the City a one-year (1) warranty or a maintenance bond for 125% of the cost of improvements to protect against defective materials or workmanship on the improvements constructed.

ARTICLE VII

ADDITIONAL NOTICE REQUIREMENTS FOR CERTAIN REPLATS

A. Any person who wishes to revise a subdivision plat which has been previously filed for record must make an application of the proposed revised plat to the City Council. The replat of the subdivision shall meet all the requirements for a subdivision that may be pertinent. However, if the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no engineering plans or preliminary plat will be required.

B. *Replatting Without Vacating Preceding 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:

1. Is signed and acknowledged by only the owner of the property being replatted;
2. Is approved by the municipal authority responsible for approving plats; and
3. Does not attempt to amend or remove any covenants or restrictions.

C. *Replatting Without Vacating Preceding Plat: Certain Subdivisions.*

1. A replat of a part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

- (i) Is signed and acknowledged by only the owners of the property being replatted; and
- (ii) Involves only property:
 - a. Of less than one acres that fronts an existing street; and
 - b. That is owned and used by a nonprofit corporation established to assist children in at-risk situations through volunteer and individualized attention.

2. An existing covenant or restriction for property that is replatted under this section does not have to be amended or removed if:

- (i) the covenant or restriction was recorded more than fifty (50) years before the date of the replat; and
- (ii) the replatted property has been continuously used by the nonprofit corporation for at least ten (10) years before the date of the replat.

3. Sections B and D under this article do not apply to a replat under this section.

D. *Additional Requirements for Certain Replats.*

1. In addition to compliance with section B, a replat without vacation of the preceding plat must conform to the requirements of this section if:

- (i) during the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
- (ii) any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

2. If a proposed replat described by section D(1) requires a variance, a public hearing must be held by the City Council.
3. Notice of the hearing required under subsection D(2) shall be given before the 15th day before the date of the hearing:
 - (i) by publication in an official newspaper or a newspaper of general circulation in the county in which the city is located; and
 - (ii) by written notice, with a copy of subsection D(4) attached, to the owners of lots that are in the original subdivision and that are within 200 feet of the lots to be replatted, as indicated on the most recently approved municipal tax roll, or in the case of a subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid in a post office or postal depository within the boundaries of the municipality.
4. If the proposed replat requires a variance and is protested in accordance with this subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present of the municipal planning commission or governing body, or both. 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 planning and zoning commission prior to the close of the public hearing.
5. In computing the percentage of land area under subsection (D)(4), the area of streets and alleys shall be included.
6. Compliance with subsections (D)(4) and (D)(5) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.
7. If the proposed replat described by subsection (D)(1) does not require a variance, the City shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent city or county tax roll. This subsection does not apply to a proposed replat if the City Council holds a public hearing and gives notice of the hearing in the manner provided by subsection (D)(3).
8. The notice of a replat approval required by subsection (c)(7) must include:
 - (i) The zoning designation of the property after the replat; and

- (ii) The telephone number and email address an owner of a lot may use to contact the City about the replat.

ARTICLE VIII GUARANTEE OF PERFORMANCE AFTER APPROVAL

- A. The subdivider is expected to complete the improvements of subdivision after approval of the final plat. Failure to do so will result in denial of city water and sewer service.
- B. Building and other permits will be denied for tracts which have not complied with the requirements of this ordinance.

ARTICLE IX FILING FEES AND CHARGES

A. The following schedule of fees and charges shall be paid to the City when any plat is tendered to the City Council. Each of the fees and charges provided herein shall be paid in advance, and no action of the City Council shall be valid until the fee or fees shall have been paid to the officer designated therein.

B. The city secretary, his deputies or assistants, shall calculate the fees and charges in accordance with the following schedule:

1. Preliminary plats: one hundred dollars (\$100.00) flat fee, plus two dollars (\$2.00) per lot.
2. Final plats: one hundred dollars (\$100.00) flat fee.
3. For approval of multiple dwelling areas, commercial or industrial areas not subdivided into lots, the preliminary plats shall carry a fee of five dollars (\$5.00) per acre per plat. The fee for the final plat shall be one hundred dollars (\$100.00) flat fee.
4. Manufactured home parks: one hundred dollars (\$100.00) flat fee, plus two dollars (\$2.00) per mobile home space.
5. These fees shall be charged on all plats, regardless of the action taken by the planning commission and whether the plat is approved or denied.
6. The subdivider shall cause a check to be made payable to the city secretary to cover all recording fees involved in finishing the platting process and have this delivered to the city secretary prior to the submission for approval.

ARTICLE X STANDARDS AND SPECIFICATIONS

A. Streets.

1. *Street layout.* Adequate streets shall be provided by the subdivider and the arrangement, character, extent, width, grade, and location of each shall conform to the comprehensive plan of the City and shall be considered in their relation to existing

and planned streets, to topographical conditions, to public safety and convenience, and in their appropriate relationship to the proposed uses of land to be served by such streets. The street layout shall be devised for the most advantageous development of the entire neighborhood.

2. *Relation to adjoining street system.* Where necessary to the neighborhood pattern, existing streets in adjoining areas shall be continued and shall be at least as wide as such existing streets and in alignment therewith.
3. *Projection of streets.* Where adjoining areas are not subdivided, the arrangement of streets in the subdivision shall make provision for the proper projection of streets into such unsubdivided areas.
4. *Street jogs.* Whenever possible, street jogs with centerline offsets of less than 100 feet shall be avoided.
5. *Half streets or adjacent streets.* In the case of collector, minor, or marginal access streets, no new half streets shall be platted.
6. *Street intersections.* Street intersections shall be as nearly at right angles as practicable, giving due regard to terrain and topography.
7. *Dead-end streets.* Dead-end streets shall be prohibited except as short stubs to permit future expansion.
8. *Cul-de-sacs.* In general, cul-de-sacs shall not exceed 600 feet in length, and shall have a turnaround of not less than 100 feet in diameter in residential areas. The pavement within the right-of-way of the turnaround shall have a minimum radius of 40 feet.
9. *Minor streets.* Minor streets shall be laid out so as to discourage their use by through traffic.
10. *Pavement widths and rights-of-way generally.* Pavement widths and rights-of-way shall be as follows:
 - (i) Arterial streets shall have a right-of-way width of at least 80 feet, with a pavement width of at least 44 feet back to back of curbs.
 - (ii) Collector streets shall have a right-of-way of at least 60 feet and a pavement width of at least 36 feet back to back of curbs.
 - (iii) Minor streets shall have a right-of-way at least 50 feet and a pavement width of at least 27 feet back to back of curbs.
11. *Pavement widths and rights-of-way of streets bounding subdivision.* Pavement widths and rights-of-way of streets forming part of the boundary of the subdivision (adjacent) shall be as follows:
 - (i) The subdivider shall dedicate a right-of-way of 40 feet in width for new adjacent arterial streets, and 22.5 feet of such right-of-way shall be paved.

- (ii) Where the proposed subdivision abuts upon an existing street or half-street that does not conform to a requirement of this Ordinance, the subdivider shall dedicate right-of-way sufficient to make the full right-of-way width conform to this Ordinance, and there shall be paved so much of such right-of-way as to make the full pavement width comply with such subsection. Before any pavement is laid to widen existing flexible base pavement, the existing pavement shall be cut back two feet to assure an adequate subbase and pavement joint.

12. *Construction requirements.*

- (i) The minimum standard residential street shall be a 27-foot curb and guttered street constructed of eight inches flexible base and having two inches of asphaltic surface. The City Council may grant permission to the subdivider to build open ditch, road section streets, conforming to minimum specifications. However, the subdivider must show good and sufficient cause to the City Council before they will grant permission to build open ditch, road section streets.
 - (ii) Additional construction requirements will be promulgated by the utilities director in accordance with applicable state law and this ordinance.
13. *Curbs.* Curbs shall be installed by the subdivider on both sides of all interior streets, and on the subdivision side of all streets forming part of the boundary of the subdivision, unless the subdivider has permission from the City Council not to install curbs.
14. *Street names.* Names of new streets shall not duplicate or cause confusion with the names of existing streets, unless the new streets are a continuation of or in alignment with existing streets, in which case names of existing streets shall be used.
15. *Streetlights.* Streetlights shall be installed by the developer at all street intersections within the subdivision, as required by the city building official.
16. *Street signs.* Street signs shall be installed by the City at all intersections within or abutting the subdivision.
17. *Minimum elevation.* The minimum elevation of streets (top of curb or centerline) shall comply with all regulations issued by the Department of Housing and Urban Development, Federal Insurance Administration.

ARTICLE XI
UTILITY EASEMENTS, LINES

All utility lines that pass under a street or alley shall be installed before the street or alley is paved. When it is necessary that utility lines pass under the street or alley pavement, they shall be installed to a point at least 10 feet beyond the edge of the pavement.

ARTICLE XII WATER SYSTEM

A. The subdivider shall design and construct within the subdivision a water distribution system to serve every lot. It shall conform to the technical specifications of the city engineer in accordance with city requirements.

B. The distribution system shall provide for the fire flow with minimum six-inch mains to serve all fire hydrants.

C. Fire hydrants shall be located within 500 feet of all building sites.

D. Minimum size water line shall be four inches.

E. Maximum number of house connections on a looped four-inch line shall be 20, and on a dead-end four-inch line it shall be 10.

F. Minimum pressure in the system under a peak domestic consumption of 450 gallons per capita per day shall be 40 psi.

G. A flushing device shall be provided at the end of all dead-end lines.

H. Water lines shall be interconnected at intervals not to exceed 1,000 feet, or as prescribed by the utilities director.

I. Valves shall be placed on all branches from feeder mains (six inches or greater) and on all leads from feeder mains to fire hydrants.

J. There shall be no length of water line greater than 800 feet without valve control.

K. All water lines shall be looped whenever the extension of 250 feet of four-inch line would accomplish such looping.

L. All water services shall be installed by, and at the expense of, the developer to the property line of each lot.

ARTICLE XIII SANITARY SEWER SYSTEM

A. The subdivider shall design and construct within the subdivision a sewer collection system to serve every lot. It shall conform to the technical specifications of the city engineer and in accordance with city requirements.

B. Connections with the sanitary sewer system shall be required except where the utilities director determines that such connection will require unreasonable expenditure when compared with other methods of sewage disposal or where sewer system connections are not available. Where septic tanks are installed, the subdivider shall conduct soil analysis under the supervision of the Anderson County inspector in order to determine the adequacy of

proposed lot sizes. If a sanitary sewage disposal system is to be installed, the plans for such system must be approved by the state commission on environmental quality (TCEQ).

- C. Minimum size of sewers shall be six inches.
- D. Minimum velocities in sewer pipes flowing full shall be one and seven tenths feet per second and minimum "n" value shall be 0.013.
- E. Maximum manhole spacing shall be 500 feet.
- F. Manholes shall be placed at points of change of grade, size, direction, and at junctions with other lines.
- G. All sewer pipe joints shall be die cast joints or factory made coupling joints approved by the utilities director.
- H. Sewer pipe material shall be approved by the building official.
- I. Minimum cover shall be three feet.
- J. Single house services shall be four-inch minimum on a slope of 1%. Double house services shall be six-inch pipe.
- K. All sewer service lines shall be installed extending to the lot lines. These sewer services shall be installed by and at the expense of the developer.

ARTICLE XIV DRAINAGE

A. Easements. Where a subdivision is traversed by a watercourse, drainageway, natural channel or stream, there shall be provided an easement or right-of-way conforming substantially to the limit of such a watercourse, plus an additional width to accommodate future needs. Easements for open ditches or watercourses shall have a 15-foot working space provided adjacent one bank. In no case shall an open ditch or watercourse be located in an easement of less than 30-foot width.

B. Off-site drainage. Easements and drainage facilities shall be provided by the subdivider; the facilities shall be designed for six-tenths cubic feet per second per acre runoff.

C. Drainage facilities. Drainage facilities shall be approved by the city engineer and conform to all applicable regulations of this Ordinance.

1. *Runoff criteria*. Storm sewers, ditches and other drainage structures shall be designed for one cfs per acre runoff for residential land use and two cfs per acre for commercial land use.
2. *Ditch slope*. Minimum to be one-tenth foot fall per 100 feet. Ditch banks shall have a maximum slope of one vertical on two horizontals.

3. *Ditch depth.* Minimum shall be four inches from flow line of ditch to edge of road shoulder. Maximum in any street right-of-way for ditches adjacent, and parallel, any street shall be two feet from flow line of ditch to edge of road shoulder. Ditches of greater depth than two feet shall be enclosed in such cases.
4. *Curbs and gutter street.* The maximum distance stormwater shall run in gutters before entering an inlet is 1,000 feet. Minimum slope on gutters for asphaltic surfaced, flexible base streets shall be 25% (twenty-five one-hundredths foot fall per 100 feet). Minimum slope on gutters for concrete streets shall be 20%. Minimum fall around a curb return shall be ten-hundredths feet.
5. *Minimum inlet size.* There shall be no less than one and five-tenths square feet of throat opening in any inlet. No more than 800 feet of gutter shall drain into an inlet of this minimum size. Laterals discharging from such minimum size inlets shall be not less than 18 inches.
6. *Valley gutters.* Valley gutters shall not be permitted without the approval of the building official. When permitted, they shall be of concrete of not less than two-foot width on each side of the flow line (four-foot overall width).

ARTICLE XV PARKING

Each residence must have two (2) paved off-street parking spaces adequate for two (2) vehicles to be parked.

ARTICLE XVI LOTS

A. Sewered lots. Where off-lot sewerage is provided, each residential lot shall have an area of at least 5,000 square feet, shall be at least 100 feet deep and shall be at least 50 feet wide. In case of irregularly shaped lots, the minimum width shall be measured at the front building line.

B. Unsewered lots. Where off-lot sewerage is not required, and is not provided, residential lots shall have an area of at least 20,000 square feet and shall be at least 200 feet wide. Where, as the result of the soil analysis, it is determined that the minimum lot area insufficient, the City Council shall require additional area is sufficient to accommodate the sanitary facilities deemed necessary. In case of irregularly shaped lots, the minimum width shall be measured at the front building line.

C. Corner lots. Corner lots shall be at least 55 feet wide.

D. Frontage. Each lot shall front upon a public street. Lots of irregular shape shall not be allowed unless they have a street frontage of at least 20 feet.

E. Side lot lines. Side lot lines shall be substantially at right angles to straight street lines and radial to curved street lines.

F. Minimum building setback lines. Minimum front building setback lines shall be required of at least 25 feet. Where a corner lot is a key lot (where lots face the frontage street and other lots face the side street), the corner lot shall have at least the minimum building setback line on both streets. Where a corner lot is not a key lot, it shall have a minimum building setback line of the side street of at least 10 feet. Lots abutting a crosswalk way shall be treated as corner lots.

G. Rear yards. Minimum rear yard depths shall be required of at least 30% of the depth of the lot; however, the depth need not exceed 20 feet.

H. Side yards. Minimum side yards on each side of buildings on interior lots and on the building side of corner lots shall be required of at least 10% of the width of the lot, or five feet, whichever is greater. Lots abutting on crosswalk ways shall be treated as corner lots.

I. Extra depth and width in certain cases. Where a lot in a residential area backs up to a railroad right-of-way, a high-pressure gasoline, oil or gas line, an arterial street, an industrial area, or other land use which has a depreciating effect on the residential use of the property, and where no marginal access street or other street is provided at the rear of such lot, additional depth shall be required by the building official. In no case shall a depth in excess of 175 feet be required. Where a lot sides to any of the above, additional width shall be required by the building official, but in no event shall a width in excess of 200 feet be required.

ARTICLE XVII ADMINISTRATION AND ENFORCEMENT

A. Authority of city engineer. The city engineer or duly authorized representative is hereby authorized and directed to promulgate rules, regulations, standards and specifications for the construction, installation, design, location and arrangement of streets, curbs, streetlights, street signs, alleys, utility layouts, utility easements, gates for utility easements, sidewalks, water supply and water distribution systems, fire hydrants, sewage disposal systems, septic tanks, water wells, monuments, criteria for drainage easement requirements, drainage facilities, and crosswalk ways. He shall file same with the city secretary at least 30 days before it becomes effective. No such rules, regulations, standards and specifications shall conflict with this or any other provisions of this Ordinance. All such improvements shall be constructed, installed, designed, located and arranged by the subdivider in accordance with such rules, regulations, standards and specifications.

B. Responsibility for improvements.

1. *On-site improvements.* The subdivider shall bear the costs of all improvements inside his subdivision as required by this ordinance. In the event the City requires improvements of greater size, capacity, depth, or other requirements beyond the needs of the subdivision in question, the City shall bear the cost of the additional requirements.

2. *Off-site improvements.* It is the general intent of the City to extend city utilities to subdivisions to the extent that the City Council feels it is economically justified or otherwise in the best interest of the City.
3. *Street improvements.* Streets forming part of the boundary of the subdivision (adjacent) shall be improved as required in this ordinance. Where the City requires oversize pavement beyond the needs of the subdivision, it shall bear the additional cost.
4. *Drainage improvements.* The subdivider shall pay for all off-site improvements required by this section, with the City paying for the additional costs of oversize facilities it requests.

C. Inspection of construction.

1. The City shall be given opportunity to inspect all phases of the construction of improvements for subdivisions. The subdivider, or his contractor, shall maintain such regular contact as is necessary or as required by the City with the building official, or his representative, during construction of improvements.
2. No sanitary sewer, water, or storm sewer pipe shall be covered without approval of the utilities director or his representative. No concrete shall be poured for streets, structures, or curbs and gutters without said approval. No flexible base material shall be placed on the streets subgrade or asphaltic surface applied to the flexible base of a street without said approval.

D. Subdivisions part of larger tract.

1. Where the proposed subdivision constitutes a unit of a larger tract owned by the subdivider, which is intended to be subsequently subdivided as additional units of the same subdivision, the preliminary and final plats shall be accompanied by a layout of the entire area, showing the tentative proposed layout of the streets, blocks, drainage, water, sewerage and other improvements for such areas. The overall layout, if approved by the City Council, shall be attached to and filed with a copy of the approved subdivision plat in the permanent files of the building official. Thereafter, plats of subsequent units of such subdivision shall conform to such approved overall layout, unless changed.
2. However, except where the subdivider agrees to such change, the City Council may change such approved overall layout only when the City Council determines:
 - (i) That adherence to the previously approved overall layout will hinder the orderly subdivision of other land in the area in accordance with the provisions of this ordinance; or
 - (ii) That adherence to the previously approved overall layout will be detrimental to the public health, safety or welfare, or will be injurious to other property in the area.

E. Compliance; enforcement.

1. No permit shall be issued by the City for the installation of septic tanks upon any lot in a subdivision for which a final plat has not been approved and filed for record or upon any lot in a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
2. No building, repair, plumbing or electrical permit shall be issued by the City for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record nor for any structure on a lot within a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
3. The City shall not repair, maintain, install or provide any streets or public utility services in any subdivision for which a final plat has not been approved and filed for record nor in which the standards contained herein or referred to herein have not been complied with in full.
4. The City shall not sell or supply any water or sewer service within a subdivision for which a final plat has not been approved or filed for record nor in which the standards contained herein or referred to herein have not been complied with in full.
5. On behalf of the City, the city attorney shall, when directed by the City Council, institute appropriate action in a court of competent jurisdiction to enforce the provisions of this Ordinance or the standards referred to herein with respect to any violation thereof which occurs within the City or within the extraterritorial jurisdiction of the City.
6. No changes, erasures, modifications or revisions shall be made in any plat of a subdivision after approval has been given by the City Council and endorsed on the plat in writing, unless such change, modification or revision is first submitted to and approved by the City Council.
7. Violations of any provision or provisions of this ordinance by any person or entity shall constitute a misdemeanor and upon conviction of such violation a fine in the maximum amount of \$500.00.
8. No conviction or convictions under the penal provisions of this ordinance shall ever be considered as any bar to any injunctive or other legal remedy, relief, right, or power existing in the City of enforcing the application and provisions of this ordinance by virtue of the constitution and the laws of the state and of the City.

F. Variances.

1. The City Council may authorize a variance from the regulations this Ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done. The building official shall first review the request for a variance and make a written recommendation to the City Council.

2. No variance shall be granted unless the City Council finds that:
 - (i) There are special circumstances existing on the property on which the application is made related to size, shape area topography, surrounding conditions and location that do not apply generally to other property in the same area and the same zoning district;
 - (ii) That a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed, under the ordinance, by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made;
 - (iii) That the granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the comprehensive plan of the City; and
 - (iv) That the variance, if granted, will be no material detriment to the public welfare or injury to the use, enjoyment or value of property in the vicinity.
3. Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the council meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this Ordinance so that the public health, safety and welfare may be secured and substantial justice done.

ARTICLE XVIII ACCEPTANCE

A. Approval.

1. The approval of any plat or replat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the City concerning the maintenance or improvement of any such proposed dedications until the proper authorities of the City shall have made actual appropriation of the same by entry, use, or improvement. If any such plan, plat, or replat is disapproved by the City Council, such disapproval shall be deemed as a refusal by the City of the offered dedication shown thereon.
2. After construction is completed, the developer may request an inspection by the city engineer who will make a written certificate of completion recommendation to the City Council concerning the acceptance of the subdivision. In no case will the City Council consider the acceptability of a subdivision without the engineer's certificate of completion.

ARTICLE XIX UTILITIES

- ### **A. Service.**
- Unless and until any such plans, plats, or replats, specifications and construction shall have been first approved in the manner and by the authorities provided for

herein, it shall be unlawful within the area covered by such plans, plats, or replats for any city official or employee thereof to serve or connect said land or any part thereof with any public utility, such as water, sewer, lights, gas, etc., which may be owned, controlled, regulated or distributed by the City.

**ARTICLE XX
SEVERABILITY CLAUSE**

Should any provision, word, sentence, paragraph, clause, phrase, or section of this Ordinance or its application to any person or circumstances be adjudged or held invalid, void, or unconstitutional, the invalid, void or unconstitutional portion shall not affect the validity of the remaining portions of this Ordinance which shall remain in full force and effect.

**ARTICLE XXI
REPEALING CLAUSE**

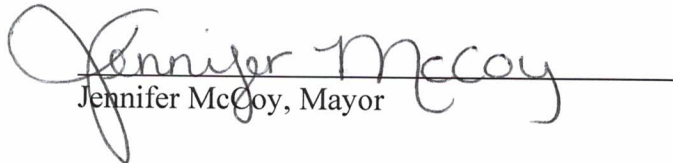
All provisions in conflict with the provisions of this Ordinance, shall be, and the same are hereby repealed, and all other provisions not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**ARTICLE XXII
EFFECTIVE DATE**

This Ordinance shall become effective following its passage and approval by the City Council for the City of Elkhart, Texas.

PASSED, APPROVED, and ADOPTED on the 6 day of September 2022.

APPROVED:


Jennifer McCoy, Mayor

ATTEST:


Jan Stuteville, City Secretary