



City of Rowlett

Official Copy

Ordinance: ORD-009-17

4000 Main Street
Rowlett, TX 75088
www.rowlett.com

AN ORDINANCE OF THE CITY OF ROWLETT, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF ROWLETT, TEXAS, BY AMENDING TABLE 8.2-1 ("SUMMARY OF ADMINISTRATION AND REVIEW ROLES") OF SECTION 77-802 OF CHAPTER 77-800 ("REVIEW AND APPROVAL PROCEDURES") OF CHAPTER 77 (THE "ROWLETT DEVELOPMENT CODE") TO REPLACE THE TABLE WITH A REVISED TABLE; BY AMENDING SECTION 77-806 ("PLATTING") OF CHAPTER 77-800 ("REVIEW AND APPROVAL PROCEDURES") OF CHAPTER 77 (THE "ROWLETT DEVELOPMENT CODE") TO REPEAL ALL OF SECTION 77-806 AND REPLACE THE SECTION WITH A NEW SECTION 77-806, PROVIDING NEW REGULATIONS FOR PLATS AND SUBDIVISIONS OF LAND; PROVIDING A REPEALING CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission of the City of Rowlett and the governing body of the City of Rowlett, in compliance with the laws of the State of Texas and the ordinances of the City of Rowlett, have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing and where the governing body in the exercise of its legislative discretion has concluded that the Zoning Ordinance of the City of Rowlett should be amended.

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

SECTION 1. That the Code of Ordinances of the City of Rowlett, Texas, be and is hereby amended by amending Table 8.2-1 ("Summary of Administration and Review Roles") of Section 77-802 of Chapter 77-800 ("Review and Approval Procedures") of Chapter 77 ("Development Code") to repeal and replace said Table 8.2-1 with a new table, to read in its entirety as follows:

Table 8.2-1: Summary of Administration and Review Roles					
NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 77-800. Exceptions to these general rules apply. See subsequent sections of Chapter 77-800 for details on each procedure.					
R = Review (Responsible for Review and/or Recommendation) H = Hearing (Public Hearing Required)			D = Decision (Responsible for Final Decision) A = Appeal (Authority to Hear/Decide Appeals)		
Action Type	Chapter	City Council	Planning and Zoning Commission	Board of Adjustment	City Staff
Amendments to Text of this Code	77-804	D-H	R-H		R
Rezoning	77-805	D-H	R-H		R
Preliminary Plat	77-806.D		D		R
Final Plat	77-806.E		D		R
Vacating Plat, if no lots have been sold	77-806.F.1.a				R-D
Vacating Plat, if lots have been sold	77-806.F.1.b		D		R
Replat without vacation	77-806.F.2		D-H		R
Minor Plats	77-806.F.4		A		R-D
Conveyance Plats	77-806.G				R
Subdivision Variance	77-806.I		D		R
Amendments to Approved Plats	77-806.F.4		A		R-D

SECTION 2. That the Code of Ordinances of the City of Rowlett, Texas, be and is hereby amended by amending Section 77-806 (“Platting”) of Chapter 77-800 (“Review and Approval Procedures”) of Chapter 77 (the “Rowlett Development Code”) to repeal all of Section 77-806 and replace the section with a new Section 77-806, to read in its entirety as follows:

"CHAPTER 77

DEVELOPMENT CODE

CHAPTER 77-800. REVIEW AND APPROVAL PROCEDURES

Sec. 77-806. Platting.

- A. Purpose. The purpose of the plat review process is to ensure compliance with the subdivision standards and requirements set forth in subchapter 77-600, subdivision and land development, while encouraging quality development consistent with the comprehensive plan.
- B. General. The procedures of this section, and the standards and requirements set forth in subchapter 77-600, subdivision and land development, shall apply to all subdivisions or resubdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or resubdivisions created by an exercise of the power of eminent domain by an agency of the state or city.
- C. Previously filed applications
 - 1. Where an application was filed for review prior to January 1, 2017, the city regulations in effect prior to that date shall apply but the developer may elect to develop the property under these regulations. This election shall be made in writing at the time of application and shall be binding for the life of the project. The developer shall not be allowed to select provisions from both the regulations and the developer shall not be granted any waiver to this elective requirement.
- D. Preliminary platting procedures
 - 1. Pre-application meeting. A pre-application meeting shall be held between the applicant and city staff prior to submission of a preliminary plat application for the purpose of advising the applicant as to the general restrictions, requirements, and other planning and engineering matters applicable to the plat. If an issue arises during the pre-application meeting that directly concerns a city department not represented, the appropriate city staff will be contacted.
 - 2. Generally.
 - a. Prior to the filing of a preliminary plat, the developer shall meet with the city staff for a pre-application meeting.
 - b. After the pre-application meeting, the developer shall file the required number of copies of the preliminary plat of the proposed subdivision with the city for submission to the planning and zoning commission,

and include the required filing fees and tax certificates showing all taxes have been paid on the property being platted.

- c. The following notice shall be stamped on the face of each preliminary plat: "Preliminary Plat - for inspection purposes only and in no way official or approved for record purposes."
- d. Preliminary plats shall be distributed by city staff to city departments. The owner shall be provided an opportunity to attend a developer/city staff meeting for the purpose of notifying the developer of necessary corrections.
- e. The development services department shall accumulate the comments of the city departments, and conduct a developer/city staff meeting to report the comments and requested corrections to the developer. The developer shall be allowed to make comment or make required corrections and submit the corrected preliminary plat to the development services department for submission to the planning and zoning commission. The corrected preliminary plat shall be submitted within 30 days of the date the original preliminary plat was officially filed and prior to the meeting of the planning and zoning commission at which such preliminary plat is scheduled for consideration. Upon timely receipt, the director of development services shall submit the corrected preliminary plat to the planning and zoning commission.
- f. A written report shall be prepared by city staff and submitted to the planning and zoning commission stating the review comments of the preliminary plat noting any unresolved issues.
- g. Following review of the preliminary plat and other materials submitted in conformity with this chapter, the planning and zoning commission shall act on a preliminary plat, within 30 days after the date the preliminary plat is officially filed. The planning and zoning commission may either:
 - (1) Approve the preliminary plat as presented;
 - (2) Approve the preliminary plat with conditions; or
 - (3) Disapprove the preliminary plat. If disapproved, the planning and zoning commission upon written request, shall state the reasons for disapproval. A conditional approval shall be considered a disapproval until the conditions have been satisfied.
- h. The actions of the planning and zoning commission shall be noted on the face of the preliminary plat. One copy shall be returned to the developer and the other retained in the files of the development services department.
- i. The planning and zoning commission shall, in its action on the preliminary plat, consider the physical arrangement of the subdivision and determine the adequacy of the street and thoroughfare rights-of-way and alignment

and the compliance of the streets and thoroughfares with the major thoroughfare plan, the existing street pattern in the area and with any other applicable provisions of the zoning ordinance and comprehensive plan. The planning and zoning commission, based on city staff recommendations, shall also ascertain that adequate easements for proposed or future utility service and surface drainage are provided, and that the lot sizes and area comply with the zoning ordinance and are adequate to comply with the minimum requirements for the type of sanitary sewage disposal proposed. All on-site sewage disposal systems shall meet the minimum standards required by the City Code of Ordinances and the regulations of Dallas or Rockwall Counties and of the Texas Commission on Environmental Quality, or their successors.

- j. Approval of a preliminary plat by the planning and zoning commission is not approval of the final plat but is an expression of approval of the layout shown subject to satisfaction of specified conditions. The preliminary plat serves as a guide in the preparation of a final plat.
3. Standards for approval. No preliminary plat shall be approved unless the following standards have been met:
 - a. The preliminary plat conforms to the applicable zoning and all other requirements of this chapter and the City Code of Ordinances; and
 - b. A tree survey / preservation plan has been approved in accordance with the regulations in the City Code of Ordinances.
4. Data requirement. All preliminary plat applications shall include the following at the time of submittal:
 - a. An approved drainage plan and study, including the 100-year floodplain, and any existing or proposed drainage easements affecting the plan;
 - b. Preliminary water extension and layout plan;
 - c. Preliminary sanitary sewer extension and layout plan;
 - d. The number of copies, page sizes and specific data requirements shall be in accordance with application guidelines provided by the development services department.
5. Effect of approval. Approval of a preliminary plat by the planning and zoning commission constitutes authorization for the property owner to submit engineering plans for review by the city engineer.
6. Changes or alterations to approved preliminary plat. No previously approved preliminary plat may be changed or altered, except to bring the plat in conformance with the conditions and requirements stipulated by the planning and zoning commission and city council. Minor changes as outlined below shall be permitted at the discretion of the director of development services:
 - a. The proposed internal street and/or circulation system and alignments may

be altered if minor in nature. Changes to street classifications, connections to perimeter streets, or extensions to the subdivision's perimeter to un-subdivided property shall not be considered minor alterations.

- b. A net increase, not to exceed three percent of the total residential lots (rounded to the nearest whole number) in the overall lot yield of the approved preliminary plat may be made, except as elsewhere prohibited by these regulations.
 - c. If the director of development services determines that the proposed changes are minor, a revised preliminary plat may be approved administratively. A revised preliminary plat shall include all property within the boundary of the original preliminary plat. A revision to a preliminary plat shall not affect the expiration date of the plat and shall carry the same expiration as outlined below.
7. Expiration of preliminary plat approval.
- a. The approval of a preliminary plat expires 24 months after the date of planning and zoning commission approval unless a final plat is submitted and has received approval by the planning and zoning commission for the property within such period, or the period is extended by the planning and zoning commission in accordance with the extension and reinstatement guidelines contained herein.
 - b. If the time period is not extended, or a final plat is not submitted and approved by the planning and zoning commission within the 24-month-period, the preliminary plat approval shall be null and void and the owner shall be required to submit a new plat for the property subject to the then existing zoning, subdivision and other regulations.
8. Extension and reinstatement of expired preliminary plat.
- a. Sixty days prior to or following the lapse of approval for a preliminary plat as provided in these regulations, the owner may request the planning and zoning commission to extend or reinstate the approval.
 - b. In determining whether to grant such request, the planning and zoning commission shall take into account the reasons for lapse, the ability of the owner to comply with any conditions attached to the original approval and the extent to which newly adopted zoning and subdivision regulations shall apply to the preliminary plat. The planning and zoning commission may extend or reinstate the preliminary plat or deny the request, in which instance the owner must submit a new preliminary plat application for approval.
 - c. The planning and zoning commission may extend or reinstate the approval subject to additional conditions based upon newly enacted

regulations such as are necessary to issue compliance with the original conditions of approval. The planning and zoning commission may also specify a shorter time for lapse of the extended or reinstated preliminary plat than is applicable to original preliminary plat approval.

9. Waiver of requirement for preliminary plat.
 - a. A preliminary plat is not required when a minor plat or conveyance plat is submitted in accordance with the requirements of this chapter.
 - b. The director of development services may waive the requirement for a preliminary plat when:
 - (1) The proposed subdivision will occur in only one logical manner because of the nature of the property; and/or
 - (2) The subdivision does not propose a phased development.

E. Final platting procedures

1. Generally.
 - a. After approval of the preliminary plat by the planning and zoning commission and upon substantial completion of the required public improvements and issuance of a substantial completion letter from the city engineer to the developer or the provision of an improvement agreement as allowed herein, the owner shall submit a final plat for the property for approval.
 - b. The final plat shall conform substantially to the approved preliminary plat and, if desired by the developer, may cover only a phase of the approved preliminary plat; provided, however, such phase conforms to all the requirements of this Code and the approved preliminary plat indicated the phasing of such development.
 - c. The final plat shall be distributed to the city departments and other agencies for review and comment in the same manner as a preliminary plat.
 - d. The development services department shall accumulate the comments of the city departments and agencies and conduct a developer/city staff conference to report the comments and requested corrections to the developer. The developer shall make comments or make the required corrections and submit the corrected final plat to the development services department for submission to the planning and zoning commission. The corrected final plat shall be submitted within 30 days of the date the original final plat was officially filed and prior to the meeting of the planning and zoning commission at which the original final plat is scheduled for consideration.
 - e. The final plat shall be submitted to the planning and zoning commission at the next available meeting with any appropriate comments and

recommendations by the development services department. The planning and zoning commission shall act on the final plat within 30 days after the official filing date. If no action is taken by the planning and zoning commission within such period, the final plat shall be deemed approved. A certificate showing the filing date and failure to take action thereon within the 30-day period shall on request be issued by the planning and zoning commission, which shall be sufficient in lieu of a written endorsement of approval. The planning and zoning commission shall be the final approval authority for final plats. The denial of approval of a final plat shall not be appealable to the city council.

- f. The planning and zoning commission shall consider the final plat, including all proposals by the owner with respect to the dedication of right-of-way for public use, the construction of utilities, streets, drainage and other improvements.
 - g. The approval of the final plat by the planning and zoning commission shall authorize the planning and zoning commission chairperson to execute the certificate of approval on the final plat.
 - h. The approved final plat shall then be filed of record in the plat records of the appropriate county clerk.
 - i. Final plats disapproved by the planning and zoning commission shall be returned to the developer by the development services department.
 - j. In the event a final plat is approved by the planning and zoning commission for a subdivision in phases, the final plat of each phase shall carry the same name throughout the entire subdivision, but bear a distinguishing letter, number or subtitle. Lot and block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in phases.
2. Standards for approval. No final plat shall be approved unless the following standards have been met:
- a. The final plat substantially conforms to the preliminary plat;
 - b. The city engineer has issued a substantial completion letter indicating required public improvements have been substantially constructed, and/or an improvement agreement has been approved by the city for the subsequent completion of the public improvements;
 - c. The final plat conforms to the applicable zoning and all other requirements of this chapter;
 - d. Provisions have been made for adequate public facilities under the terms of this chapter; and
 - e. All required fees have been paid.
3. Data requirement.

- a. The subdivider shall submit to the development services department the necessary copies of the final plat and required supporting data prepared in accordance with the requirements set forth in the application guidelines provided by the development services department. All documents shall be signed and dated by the applicant or person preparing the plans.
- b. The final plat shall be prepared and signed by a registered professional land surveyor.
- c. A final plat shall not be determined to be complete if it does not conform to the requirements of this Code. A final plat shall be considered filed on the date the application is considered complete. All complete applications received on the next official submittal date as published in the user's guide.
- d. A notarized certification by a registered professional land surveyor, licensed by the State of Texas, placed on the plat as follows:

Surveyor's Certificate

THAT I, _____ / _____ / _____, do hereby certify, that I prepared this plat from an actual on the ground survey of the land as described and that the corner monuments shown thereon were properly placed under my personal supervision in accordance with the Platting Rules and Regulations of the City of Rowlett.

_____(SEAL)
 _____, Notary

- e. A notarized certification by the owner(s) of record placed on the plat as follows:

That I/we, _____, Owners, do hereby bind themselves and their heirs, assignees and successors of title this plat designating the hereinabove described property as " _____", an addition to the City of Rowlett, and do hereby dedicate to the public use forever the streets, alleys, and right-of-way easements shown thereon, and do hereby reserve the easement strips shown on this plat for the mutual use and accommodation of garbage collection agencies and all public utilities desiring to use or using same. Any public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, or other improvements or growths that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of these easements strips, and any public utility shall at all times have the right of ingress and egress to and from and upon the said easement strips for the purpose of constructing, reconstructing, inspecting, patrolling, without the necessity at any time of procuring the permission of anyone. This

public lands and substantial completion of public improvements have been accomplished.

- c. The property owner shall be responsible for filing the final plat with the appropriate county clerk. Simultaneously with the filing of the final plat, the property owner shall record such other agreements of dedication and legal documents as shall be required to be recorded by the planning and zoning commission and the city attorney. The final plat, bearing all required signatures, shall be recorded after final approval and within five working days of its receipt. One copy of the recorded final plat, with street addresses assigned, will be forwarded to the owner by the city staff.
 - d. Approval of a final plat shall certify compliance with the regulations of the City of Rowlett pertaining to the subdivision. An approved and signed final plat may be filed with the appropriate county clerk as a record of the Subdivision and may be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.
5. Expiration of final plat approval.
- a. If public improvements for a subdivision have not been constructed and accepted by the city and the corresponding final plat for said subdivision has not been filed in the appropriate county plat records within two years after the date of final plat approval by the planning and zoning commission, said final plat shall be null and

void and shall conclusively be deemed to be withdrawn without further action by the city. This provision shall not apply to final plats approved by the city prior to the effective date of this section.
 - b. Final plats approved prior to the effective date of this section shall become null and void and shall be conclusively deemed to be withdrawn without further action by the city on January 1, 2019, if the public improvements for the subdivision have not been constructed and accepted by the city and the corresponding final plat for said subdivision filed in the appropriate county plat records.
 - c. An approved, unexpired final plat may be extended once by the planning and zoning commission upon written request, for a period not to exceed 12 months provided:
 - (1) Good cause is shown by the developer; and
 - (2) There has been no significant change in development conditions affecting the subdivision; and
 - (3) The final plat continues to comply with all applicable, regulations, standards and this chapter.

F. Vacating plats, replats and amending plats

1. Vacating plats.
 - a. The owners of the tract covered by a plat may vacate the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.
 - b. If lots have been sold, the plat, or any part of the plat may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.
 - c. The planning and zoning commission shall disapprove any vacating instrument which abridges or destroys public rights in any of the public uses, improvements, streets or alleys.
 - d. Upon approval and recording with the appropriate county clerk, the vacated plat has no effect.
2. Re-platting without vacating preceding plat.
 - a. A re-plat of a subdivision or part of a subdivision may be recorded and is controlled over the preceding plat without vacation of that plat if the replat:
 - (1) Is signed and acknowledged by only the owners of the property being platted;
 - (2) Does not attempt to amend or remove any covenants or restrictions; and
 - (3) Is approved, after a public hearing on the matter, by the planning and zoning commission.
 - b. An application for a replat shall follow the same procedure required for preliminary and final plats.
3. Additional requirements for certain replats.
 - a. In addition to compliance with final platting procedures in this Code, a replat without vacation of the preceding plat must conform to the requirements of this section if:
 - (1) During the preceding five 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 residential units per lot; or
 - (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.
 - b. Notice of the public hearing as required by this Code shall be given before the 15th day before the date of the public hearing by:
 - (1) Publication in the official newspaper; and
 - (2) By written notice, with a copy of Texas Local Government Code Section 212.015(c) attached, forwarded 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 city tax rolls of the property upon which the replat is requested.

- c. If the proposed re-plat requires a waiver and is protested in accordance with this subsection, the proposed re-plat must receive, in order to be approved, the affirmative vote of at least three-fourths of the members present at the meeting of the planning and zoning commission. For a legal protest, written instruments signed by owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed re-plat 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.
 - d. In computing the percentage of land area, the area of streets and alleys shall be included.
 - e. Compliance with section 77-806.F.3.c and 77-806.F.3.d is not required for approval of a replat of part of a preceding plat if the area to be re-platted 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.
4. Administrative approval of certain amending plats, minor plats and re-plats.
- a. The director of development services is authorized to approve the following:
 - (1) Amending plats described by Section 212.016 Texas Local Government Code;
 - (2) Minor plats involving four or fewer lots fronting an existing street and not requiring the creation of any new street or extension of municipal facilities; and
 - (3) A replat under Section 212.0145 Tex. Loc. Gov't Code that does not require the creation of any new street or the extension of municipal facilities.
 - b. The director of development services may for any reason elect to present an amending plat, minor plat or re-plat meeting the requirements of this section to the planning and zoning commission for approval.
 - c. Any amending plat, minor plat or re-plat meeting the requirements of this section which the director of development services fails or refuses to approve shall be submitted to the planning and zoning commission for approval.
- G. Conveyance plats
- 1. General. A conveyance plat is a boundary survey drawn as a plat. Easements, dedications and reservations may be recorded on a conveyance plat. Engineering plans are not required to process a conveyance plat, unless the developer plans to construct limited

improvements on the property. Development fees are not collected at the time of conveyance plat approval.

2. Purpose. The purpose of a conveyance plat is to subdivide land and to provide for recordation of same, for the purpose of conveying (i.e., selling) the property without developing it. A conveyance plat may be used to convey the property or interests therein; however, a conveyance plat does not constitute approval for any type of development on the property. A Conveyance Plat is an interim step in the subdivision and development of land.
3. Applicability. A conveyance plat may be used in lieu of a final plat to record the subdivision of property in the following instances:
 - a. To record the remainder of a parent tract that is larger than five acres, and that is created by the record platting of a portion of the parent tract, provided that the remainder is not intended for immediate development; or
 - b. To record the subdivision of a property into parcels, five acres or smaller in area, that are not intended for immediate development, provided that each parcel has direct access to all required public improvements (water, sanitary sewer, storm sewer) via dedicated easements or direct adjacency to existing infrastructure, each parcel has frontage on an existing public right-of-way, and each parcel has frontage on an existing public right-of-way, and the proposed lot meets the minimum lot dimension requirements as stipulated in this Code.
4. Certification. The conveyance plat shall contain a certification note on the plat face, as follows:

“This Conveyance Plat shall not convey any rights to Development or guarantee of public utilities, public or private access, or issuance of addressing and permits, without compliance with all Subdivision rules and regulations and the approval and recording of a Final Plat. A Conveyance Plat is filed for record in the appropriate County Clerk office upon administrative approval by the Director of Development services.”

H. Completion and maintenance of public improvements

1. Construction plan procedure.
 - a. General application requirement. Construction plans shall be prepared by or under the supervision of a professional engineer or architect registered in the State of Texas as required by state law governing such professions. Plans submitted for review by the city shall be dated and bear the responsible engineer's or architect's name, serial number and the designation of "engineer," "professional engineer" or "P.E." or "architect" and an appropriate stamp or statement near the engineer's

or architect's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the city shall bear the seal and signature of the engineer or architect and the date signed on all sheets of the plans. Public works construction in streets, alleys or easements which will be maintained by the city shall be designed by a professional engineer registered in the State of Texas.

- b. Construction plan review procedure. Copies of the construction plans, including a copy of the approved preliminary plat and payment for the construction plan review fee shall be submitted to the city engineer for final approval. The plans shall contain all necessary information for construction of the project, including screening walls and other special features. All materials specified shall conform to the standard specifications and standard construction details of the city. Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The city engineer will release the plans for construction, after payment of all inspection fees and a pre-construction conference is held. Upon such release, each contractor shall maintain one set of plans stamped with city release at the project site at all times during construction.
- c. Failure to commence construction. If commencement of construction has not occurred within one year after approval of the plans, resubmittal of plans may be required by the city engineer for meeting current standards and engineering requirements. For purposes of this section "Commencement of Construction" shall mean:
 - (1) Issuance of construction permit(s); and
 - (2) Grading of the land.

2. Improvement agreements.

- a. Substantial completion of improvements. Except as provided below, before the final plat is approved by the planning and zoning commission or the director of development services, all applicants shall be required to make substantially complete, in accordance with the city's direction and to the satisfaction of the city engineer, all street, sanitary and other public improvements, including lot improvements on the individual residential lots of the subdivision as required in these regulations and specified in the final plat, and to dedicate those public improvements to the city. As used in this section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.
- b. Agreement. The city council, considering the recommendation of the

planning and zoning commission, may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final plat, and may permit the owner to enter into an improvement agreement by which the owner covenants to complete all required public improvements no later than two years following the date on which the final plat is signed. The city council may also require the owner to complete and dedicate some required public improvements prior to approval of the final plat and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The improvement agreement shall contain such other terms and conditions as are agreed to by the owner and the city.

- c. Improvement agreement required for oversize reimbursement. The city shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the city for oversize costs.
- d. Security. The improvement agreement shall require the owner to provide sufficient security covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the city, a letter of credit or other security acceptable to the city attorney. Security shall be in an amount equal to 100 percent of the city's estimated cost of completion of the required public improvements and lot improvements. In addition to all other security, for completion of those public improvements where the city participates in the cost, the owner shall provide a performance bond from the contractor, with the city as a co-obligee. The issuer of any surety bond and letter of credit shall be subject to the approval of the city attorney.
- e. Letter of credit. If the planning and zoning commission authorizes the owner to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:
 - (1) Be irrevocable;
 - (2) Be for a term sufficient to cover the completion, maintenance and warranty periods but in no event less than two years; and
 - (3) Require only that the city present the issuer with a sight draft and a certificate signed by an authorized representative of the city certifying to the city's right to draw funds under the letter of credit.
- f. Letter of credit reductions. As portions of the public improvements are completed, the developer may make application to the city engineer to reduce the amount of the original letter of credit.
 - (1) The city engineer, if satisfied that such portion of the improvements has been completed in accordance with city construction standards,

may cause the amount of the letter of credit to be reduced by such amount deemed appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.

- (2) Upon the dedication of and acceptance by the city of all required public improvements, the city shall authorize a reduction in the security to ten percent of the original amount of the security if the owner is not in breach of the improvement agreement. The remaining security shall be security for the owner's covenant to maintain the required public improvements and the warrant that the improvements are free from defect for two years thereafter.
- g. Temporary improvements. The owner shall build and pay for all costs of temporary improvements required by the planning and zoning commission and shall maintain those temporary improvements for the period specified by the planning and zoning commission. Prior to construction of any temporary improvement, the owner shall file with the city a separate improvement agreement and escrow, or where authorized, a letter of credit, in an appropriate amount for such temporary improvements, which improvement agreement and escrow or letter of credit shall ensure that the temporary improvements will be properly constructed, maintained, and removed.
- h. Units of government. Governmental units may file, in lieu of the contract and security, a certified resolution or ordinance agreeing to comply with the provisions of this section.
- i. Failure to complete improvements. For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the city, the preliminary plat approval shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the city may:
 - (1) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the improvement agreement is declared to be in default;
 - (2) Suspend final plat approval until the public improvements are completed and record a document to that effect for the purpose of public notice;
 - (3) Obtain funds under the security and complete or cause the public improvements to be completed;

- (4) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements in the subdivision; and
 - (5) Exercise any other rights available under the law.
 - j. Acceptance of dedication offers. Acceptance of formal offers of dedication of street, public areas, easements, and parks shall be by authorization of the city engineer. The approval by the planning and zoning commission of a plat, whether preliminary or final, shall not in and of itself be deemed to constitute or imply the acceptance by the city of any street, easement, or park shown on plat. The planning and zoning commission may require the plat to be endorsed with appropriate notes to this effect.
 - k. Maintenance of public improvements. The owner shall maintain all required public improvements for a period of two years following the acceptance by the city and shall provide a warranty that all public improvements shall be free from defect for a period of two years following such acceptance by the city.
 3. Construction procedures.
 - a. Permit required. A permit is required from the city prior to commencement of any subdivision development work in the city which affects erosion control, vegetation or tree removal or a floodplain.
 - b. Preconstruction conference. The city engineer may require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a permit.
 - c. Conditions prior to authorization. Prior to authorizing release of a construction permit, the city engineer shall be satisfied that the following conditions have been met:
 - (1) The preliminary plat shall be approved by the planning and zoning commission;
 - (2) All required contract documents shall be completed and filed with the city engineer;
 - (3) All necessary off-site easements or dedications required for city infrastructure and not shown on the final plat must be conveyed solely to the city, with proper signatures affixed. The original of the documents shall be returned to the engineering department prior to approval and release of the engineering plans and issuance of a permit;
 - (4) All contractors participating in the construction shall be provided, at the developer's cost, with a set of approved plans bearing the stamp of release of the engineering department. One set of these plans shall

remain on the job site at all times;

(5) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer at least 24 hours prior to the preconstruction meeting; and

(6) All applicable fees must be paid to the city.

4. Inspection of public improvements.

a. General procedure. Construction inspection shall be supervised by the city engineer. Construction shall be in accordance with the approved plans, the standard specifications, and the standard construction details of the city. Any change in design required during construction should be made by the engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents, provided such revisions are permitted by the Texas Engineering Practice Act. All revisions shall be approved by the city engineer. If the city engineer's inspection finds that any of the required public improvements have not been constructed in accordance with the city's standard construction details and standard specifications, the owner shall be responsible for completing and/or correcting the public improvements.

b. Certificate of satisfactory completion. The city will not accept dedication of required public improvements until the applicant's engineer or surveyor has certified to the city engineer, through submission of record drawings, indicating location, dimensions, materials, and other information required by the planning and zoning commission or city engineer that all required public improvements have been completed. The record drawings shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer or other public improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the plat, and all changes made in the plans during construction and containing on each sheet a record drawing stamp bearing the signature of the engineer and the date. The engineer or surveyor shall also furnish a paper copy of the final plat and engineering plans along with digital copies of the plans in Portable Document Format ("PDF") and Computer Assisted Design Drawings ("CADD"), in such a format that is compatible with the city's CADD system. The developer shall provide a maintenance bond executed by a corporate surety duly authorized to do business in the State of Texas, payable to the city and approved by the city as to form, to guarantee the maintenance of the construction for a period of two years

after its completion and acceptance by the city. In lieu of a maintenance bond the developer may submit either an irrevocable letter of credit payable to the city and approved by the city as to form, or a cash bond payable to the city and approved as to form. The amount of the maintenance bond, letter of credit or cash bond shall be at least ten percent of the full cost of the infrastructure in the subdivision, as determined by the construction costs. When such requirements have been met the city engineer shall thereafter accept the public improvements.

- c. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the city for use and maintenance.
 - d. Upon acceptance of the required public improvements, the city engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.
5. Deferral of required improvements.
- a. The planning and zoning commission may upon petition of the owner defer at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements are not required in the interests of the public health, safety and general welfare.
 - b. Whenever a petition to defer the construction of any public improvement required under these regulations is granted by the planning and zoning commission, the owner shall deposit in escrow the developer's share of the costs of the future public improvements with the city prior to approval of the final plat, or the owner may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the city.
6. Issuance of building permits and certificates of occupancy. No building permit shall be issued for a lot or building site unless the lot or site has been officially recorded by a final plat approved by the City of Rowlett, and all public improvements as required for Final Plat approval have been completed, except as permitted below:
- a. Building permits may be issued for nonresidential and multi-family (apartments) development provided that a preliminary plat is approved by the city and civil construction plans have been released by the city engineer. Building construction will not be allowed to surpass the construction of fire protection improvements.
 - b. The city engineer may authorize residential building permits for a portion of a subdivision, provided that a preliminary plat has been approved and all public improvements have been completed for that

shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

- a. The granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property;
- b. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property; and
- c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.”

SECTION 3. That an offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 4. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Rowlett, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of two-thousand dollars (\$2,000.00) for each offense, and each and every day such violation shall continue shall be deemed to constitute a separate offense.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and Charter in such case provide.

At a meeting of the City Council on March 21, 2017 this Resolution be adopted. The motion carried by the following vote:

Ayes: 6 Mayor Pro Tem Dana-Bashian, Deputy Mayor Pro Tem Sheffield, Councilmember van Bloemendaal, Councilmember Hargrave, Councilmember Brown and Councilmember Bobbitt.

Absent: 1 Mayor Gottel

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Approved by Tommy Dea-Bashian Date March 21, 2017
Mayor Pro Tem

Approved to form by [Signature] Date March 21, 2017
City Attorney

Certified by _____ Date March 21, 2017
City Secretary
