

## ARTICLE I. - IN GENERAL

### Sec. 126-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Collector* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Commission* means the city planning and zoning commission.

*Extraterritorial jurisdiction* means that land within 3½ miles of the corporate limits of the city or as otherwise established by state law.

**State Law reference**— Extraterritorial jurisdiction, V.T.C.A., Local Government Code § 42.021 et seq.

*Interstate or expressway* means every street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Local street* means all other streets not otherwise indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Lot* means a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map or by metes and bounds, for purpose of sale or lease to or separate use of another.

*Lot consolidation* means the incorporation of a number of lots into fewer lots, each of a larger size than the original lots.

*Lot line adjustment* means a minor change in lot line location.

*Minor arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Outdoor living area* means a common outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, patios, terraces or similar areas developed for active or passive recreational activities. All areas designated for retention or detention facilities shall not be considered as qualifying under this definition.

*Plat* means a map or chart of the subdivision. It shall include a plan, plat or replat, in both singular and plural.

*Principal arterial* means a street so indicated on the major thoroughfare plan, such plan being on file with the director of planning and community development.

*Resubdivision* means the division or alteration of a tract or parcel of an existing subdivision, except lot consolidation and lot line adjustment.

*Subdivision* means a division of a tract or parcel of land within the limits or in the extraterritorial jurisdiction of the city into two or more parts to lay out a subdivision of the tract, including an addition to the city, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owner of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts. A subdivision in this chapter includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey

or by using any other method. The term "subdivision" includes a re-subdivision (replat) but does not include the following:

- (1) A division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated as described hereinabove;
- (2) A division of land owned by the city;
- (3) A division of land created solely by the city's acquisition of a portion thereof; or
- (4) A division of land created by order of a court of competent jurisdiction.

(Code 1967, § 27-3; Ord. No. 3655, § 3, 7-28-83; Ord. No. 3875, § 1, 6-14-84; Ord. No. 4483, § 1, 6-26-86; Ord. No. 8815, § 1, 1-27-00; Ord. No. 9621, § 12, 9-11-03; Ord. No. 11,822, § 1, 1-12-12)

**Cross reference**— Definitions generally, § 1-2.

Sec. 126-2. - Plat required.

- (a) Except as provided in subsection (f) hereof, a plat is required for a subdivision as defined in section 126-1.
- (b) To be recorded, the plat must:
  - (1) Describe the subdivision by metes and bounds;
  - (2) Locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part; and
  - (3) State the dimensions of the subdivision and of each street, alley, square, park or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park or other part.
- (c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.
- (d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.
- (e) The plat is subject to the filing and recording provisions of V.T.C.A., Property Code § 12.002.
- (f) A plat is not required for a subdivision that is a division of land into four or fewer parts if:
  - (1) Such division does not include streets, alleys, squares, parks or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares or other parts;
  - (2) If each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under V.T.C.A., Government Code ch. 573; and
  - (3) No development or construction is to occur on the property at the time of division of land.

A plat is required before any lot of a subdivision described by this subsection:

- (1) Is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity as determined under V.T.C.A., Government Code ch. 573; or
- (2) Is developed in any manner and used for any purpose other than agricultural, wildlife management or timber use within the meaning of Section 1-d-1, Article VIII, Texas Constitution; or

- (3) Is developed in any manner which directly or indirectly impacts the city's infrastructure, water, wastewater or drainage system.

(Ord. No. 11,981, § 1, 7-26-12)

**State Law reference**— Similar provisions, V.T.C.A., Local Government Code § 212.004.

Sec. 126-3. - Scope of chapter.

This chapter shall govern every person owning any tract of land within the city limits or extraterritorial jurisdiction who may divide the tract of land into two or more parts for the purpose of laying out any tract of land or any addition to the city or for laying out suburban lots or building lots or any lots, streets, parks or other portions intended for the public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto and has not yet presented such subdivision plans to the commission. This chapter is adopted to control the subdivision of land within the corporate limits or the extraterritorial jurisdiction in order to provide the orderly development of the areas and to secure adequate provision for light, air, recreation, transportation, water, drainage, sewage and other facilities.

(Code 1967, § 27-2; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-4. - Policy of commission.

It is an expressed policy of the commission to review the possible influences of items, not specifically detailed in appropriate ordinances, for each development proposed within the city and its extraterritorial jurisdiction. The items as discussed deal primarily with but are not limited to the following:

- (1) *Entrances.* Access and egress points for each development, whether single-family, multiple-family or commercial. In addition to actual numbers of points, the commission shall review setbacks at intersections for visual obstructions, whether parking is allowed along or within these driveways or roads; design of parking; and associated items that might have a negative effect on moving traffic into or out of a development;
- (2) *Traffic circulation and flow.* The commission, in addition to the items listed in subsection (1) of this section, will review traffic circulation and flow within and outside a proposed development for the purpose of identifying possible increases in traffic volumes and congestion and offering alternative solutions;
- (3) *Safety.* The underlying desire of the commission is to ensure that proposed projects are developed in a manner to minimize any detrimental effects to a neighborhood where safety is concerned. This safety concern can consist of vehicular, pedestrian, pedicycle conflicts; fire or explosion hazards; and natural disasters. The consideration of these items does not restrict the commission to the hazards themselves, but also to items associated with each subject as prevention, control and evacuation that may result from any of these items.

(Code 1967, § 27-1; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-5. - Enforcement; penalties.

- (a) No map or plat of any subdivision or resubdivision within the city or its extraterritorial jurisdiction shall be filed or recorded unless and until the map or plat has been authorized by the commission.
- (b) It shall be unlawful for any owner or agent of any owner of land to lay out, subdivide, plat or replat any land into lots, blocks and streets within the city or its extraterritorial jurisdiction without the approval of the commission.

- (c) It shall be unlawful for any owner or agent of any owner of land to offer for sale or sell property within the city or its extraterritorial jurisdiction which has not been laid out, subdivided, platted or replatted as required by this chapter.
- (d) The city shall withhold all utilities and maintenance of required improvements for all developments located inside the city limits and not approved by the commission. Additionally, other utility companies (gas, power, telephone, water, sewer and cable) shall withhold all connections for developments within the city's extraterritorial jurisdiction until they are provided with a certification authorizing connections by the city planning and community development department, as required in V.T.C.A., Local Government Code § 212.012.
- (e) No street number and no building permit shall be issued for the erection of any building in the city on any piece of property other than an original or a resubdivided lot in a duly approved and recorded subdivision without the written approval of the commission.
- (f) If any section of this chapter is violated within the city or its extraterritorial jurisdiction, the city may institute any appropriate action or proceedings in the district court to enjoin the violation of this chapter.
- (g) It shall be unlawful for any person to construct any improvement, other than public improvements such as streets, utilities and drainage structures, in any development that has not had its final plat approved by the commission and filed with the county clerk. It is an exception to the application of this subsection if:
  - (1) Within a phased development containing public improvements that have not yet been finally accepted, a developer constructs no more than four model homes, provided that:
    - a. All off-site drainage or regional improvements have been installed, inspected and accepted by the city;
    - b. Each model home is inspected and found to meet all building, plumbing and fire code requirements prior to being opened to observation by the public; and
    - c. The home will not be sold or occupied as a dwelling unit until all public improvements within that phase have been completed and accepted by the city; or
  - (2) No extension of a street, public utility, or other public improvement, excluding a sidewalk, is required to support the proposed development of:
    - a. Property subdivided prior to July 13, 1978;
    - b. An accessory building is built on the same lot as a single-family dwelling; provided no additional drainage improvement is required by this Code to support such accessory building; or
    - c. An addition or alteration to a single family dwelling existing on January 22, 2012; provided no additional drainage improvement is required by this Code to support such addition or alteration.
- (h) Any person who shall violate this chapter shall upon conviction be punished as provided in section 1-14.

(Code 1967, § 27-4; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5004, § 1, 5-12-88; Ord. No. 11,822, § 2, 1-12-12)

Sec. 126-6. - Appeal of commission decision.

- (a) Any person shall have the right to appeal any decision of the commission to the city council by making written request to the city manager. Such request must be filed with the city manager within 15 days after such person has been notified of the decision of the commission on the matter involved.

(b) No person shall have any right to appeal for relief to any court in regard to any matter covered by this chapter until after such person has exhausted the appeal procedure provided for in this chapter.

(Code 1967, § 27-6; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-7. - Utilization.

No building permit shall be issued until the city engineer has stated in writing his acceptance of the subdivision improvements, as provided in section 126-455, and the plat of the subdivision has been filed.

(Code 1967, § 27-63; Ord. No. 3655, § 3, 7-28-83)

Secs. 126-8—126-35. - Reserved.