

**CITY OF PELICAN BAY TEXAS  
SUBDIVISION REGULATIONS**

**COPY**

**ORDINANCE NO. 179**

**AN ORDINANCE PRESCRIBING RULES AND REGULATIONS GOVERNING PLATS, PLANS AND SUBDIVISION OF LAND WITHIN THE CITY OF PELICAN BAY, TEXAS, AND ITS LEGALLY DEFINED EXTRATERRITORIAL JURISDICTION; CONTAINING CERTAIN DEFINITIONS; PROVIDING PROCEDURES FOR THE APPROVAL OF SUBDIVISION PLATS; PRESCRIBING REGULATIONS FOR THE DESIGN AND CONSTRUCTION OF STREETS, SIDEWALKS, ALLEYS, WATER AND SANITARY SEWAGE UTILITIES, DRAINAGE AND COMMUNITY FACILITIES; PROVIDING A PENALTY FOR EACH VIOLATION THEREOF; PROVIDING A VALIDITY CLAUSE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE HEREOF.**

WHEREAS, under the provisions of the constitution and laws of the State of Texas, including particular Chapters 231, Acts of the 40th Legislature, Regular Session, 1927, as heretofore and hereafter amended (compiled as Articles 974a and 6702.1 Vernon's Annotated Civil Statutes), as heretofore and hereafter amended, every owner of any tract of land situated within the City of Pelican Bay who may hereafter divide the same in two (2) or more parts for the purpose of laying out any subdivisions of such tract of land or any addition to said City, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or submit a plat of such subdivision of addition for approval by the Planning and Zoning Commission and the City Council of the City of Pelican Bay; and,

WHEREAS, the rules and regulations of the City established by this Ordinance governing plats and subdivisions of the land in the corporate limits of the City of Pelican Bay are hereby extended to and shall apply to all of the area under the extraterritorial jurisdiction of said City, as provided for in the Municipal Annexation Act, 1963, enacted by the State of Texas and which appears as Article 970A, Vernon's Annotated Civil Statutes; and,

SUBDIVISION REGULATIONS OF THE CITY OF PELICAN BAY, TEXAS

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**SECTION 1 GENERAL PROVISIONS****1.1 Title**

This ordinance shall be known and may be cited as "the City of Pelican Bay Subdivision and Property Development Regulations."

**1.2 Purpose**

The purposes of this ordinance are:

- A. To protect and provide for the public health, safety, and general welfare of the City.
- B. To guide the future growth and development of the City in accordance with the Comprehensive Plan.
- C. To ensure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population.
- D. To guide public and private development in order to provide adequate and efficient transportation, water, sewerage, drainage, and other public requirements and facilities.
- E. To provide for the circulation of traffic and pedestrians required for the beneficial use of land and buildings and to avoid congestion throughout the City.
- F. To establish reasonable standards of design and procedures for platting to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of platted land.
- G. To ensure that adequate public facilities and services are available and will have sufficient capacity to serve the proposed subdivision or development and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services.
- H. To prevent the pollution of streams and ponds; to ensure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources, and enhance the stability and beauty of the community and the value of the land.
- I. To provide for open spaces through the most efficient design and layout of the land.
- J. To remedy the problems associated with inappropriately platted lands, including premature subdivision, incomplete subdivision and scattered subdivision.

### 1.3 Authority

This ordinance is adopted under the authority of the Constitution and Laws of the State of Texas, including particularly and without limitation Chapter 212, subchapters A and B, of the Texas Local Government Code. The rules and regulations herein adopted apply equally to the subdivision and development of land within the corporate limits and within the extraterritorial jurisdiction of the City.

### 1.4 Jurisdiction

#### A. Duty of Landowner to Plat Property

##### 1. Subdivision Plats

- a. Plat Required. Except as expressly exempted by these subdivision and property development regulations under subsection A.1.b the owner of a tract of land located within the corporate limits or in the extraterritorial jurisdiction of the City of Pelican Bay who divides the tract into two or more parts to lay out a subdivision or any addition, building or lot, or to lay out streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a plat of the subdivision. A division of a tract under this subsection 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.
- b. Exemptions. The following divisions of land do not require approval by the City of Pelican Bay:
  - (1) The creation of a leasehold for a space within a multi-occupant building or a commercial building site which does not abut a public street, provided that the property is a part of an approved subdivision or development plat and regulated in accordance with the site plan requirements of the City, and such plat has been amended as may be required to add easements or otherwise serve the leasehold. For purposes of this section, a leasehold abuts a public street if it is immediately adjacent to a public street or if it is so close to a public street that no usable property lies between the leasehold and the public street.
  - (2) The creation of a leasehold for agricultural use of the subject property, provided that the use does not involve the construction of a building(s) to be used as a residence or for

any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.

- (3) The division of property through inheritance, the probate of an estate, or by a court of law and not for purposes of development.
  - (4) The division of land into parts each of which is greater than five (5) acres in size for which no public improvement is to be dedicated and where each part has access from a public street.
  - (5) Remainder tracts, except to the extent required for purposes of supplying information needed for evaluation of the proposed development.
- B. Subsequent Divisions. Approval of a subdivision plat pursuant to Section 1.4.A, 1 shall be required prior to sale, lease or development of any tract for which a development plat has been previously approved and for which division into two or more parts subsequently is proposed by the property owner.
- C. Remainders. The owner of a tract or parcel who seeks to divide the land into two or more parts for purposes of sale, lease or development may designate one part which is not be developed as a remainder tract. Such tract shall be clearly identified by the term "remainder" and shall be deemed not to be part of the subdivision or development plat.
- D. Platting Information. A written request may be directed to the Commission for information concerning whether a plat is required under these regulations, in accordance with Section 212.0115, as amended, of the Texas Local Government Code.
- E. Legal Description. Except as provided above, no land may be subdivided or platted through the use of any legal description other than with reference to a plat approved by the Council in accordance with these regulations.
- F. Prohibition. Except as provided above, no land shall be divided for purposes of sale, lease, or transfer, nor shall land be developed until the property owner has obtained approval of a final subdivision plat or development plat as required by these regulations.
- G. Withholding Public Improvements. The City shall withhold all public improvements and utilities, including the maintenance of streets and the provision of sewage facilities and water service, from all tracts, lots or additions, the platting of which has not been officially approved and for which a certificate of compliance has not been issued.

- H. Limitation on Permits. No building permit or certificate of occupancy shall be issued for any parcel or tract of land until such property has received final plat or development plat approval and is in substantial conformity with the provisions of these subdivision and property development regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.

#### 1.5 Interpretation, Conflict and Separability

- A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.
- B. Conflict with Other Laws. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations, or other provision of law, the provision, which is more restrictive or imposes higher standards shall control.
- C. Separability. If any part or provision of these regulations or the application of these regulations to any person or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other persons or circumstances. The Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application, which is judged to be invalid.

#### 1.6 Amendment to Subdivision and Property Development Regulations

For the purpose of protecting the public health, safety and general welfare, the Council may from time to time consider amendments to these regulations, which may then be approved or disapproved by the Council after a public hearing.

#### 1.7 Effect on Pending Plats

All applications for subdivision or development plat approval, including final plats, pending on the effective date of these regulations shall be reviewed under subdivision and property development regulations in effect immediately preceding the date of adoption of these regulations and such regulations shall be kept in effect for such purpose.

### 1.8 Enforcement

- A. Violations and Penalties. Any person who violates any of these regulations for lands within the corporate boundaries of the City shall be subject to a fine of not more than \$2000 per day, pursuant to the Texas Local Government Code 54.001 - 2, et. seq. as amended of Acts 1987, ch. 680.
- B. Civil Enforcement. Appropriate civil actions and proceedings may be maintained in law or in equity to prevent unlawful construction, to recover damages, to impose additional penalties, to restrain, correct, or abate a violation of these regulations, whether such violation occurs with respect to land within the corporate boundaries of the City or within the City's extraterritorial jurisdiction. These remedies shall be in addition to the penalties described above.

### 1.9 Filing Fees

A schedule of filing fees for the City of Pelican Bay may be obtained from the City Secretary or a designated assistant and may be found in the fee schedule in Appendix A of this ordinance. All filing fees and charges must be paid in advance and no action of the Planning and Zoning Commission or the City Council shall be valid until the fees shall have been paid to the officer designated herein.

### 1.10 Incorporation of Design Manuals

The following design standards and specifications are incorporated by reference into this ordinance: All manuals referred to in the City of Pelican Bay Code of Ordinances, Building and Construction Codes, the North Central Texas Council of Governments (NCTCOG) Standard Specifications for Public Works Construction, and the attached City Design Criteria.

**SECTION 2 DEFINITIONS****2.1 Usage**

- A. For the purpose of these regulations, certain numbers, abbreviations, terms, and words shall be used, interpreted and defined as set forth in this section.
- B. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural include the singular.
- C. The word "shall" wherever used in this ordinance will be interpreted in its mandatory sense; the word "may" shall be deemed as permissive.

**2.2 Words and Terms Defined**

- 1. Abandonment. The relinquishment of property, or a cessation of the use of property, by the owner with the intention neither of transferring rights to the property to another owner nor of resuming the use of the property.
- 2. Addition. A subdivision.
- 3. Amending Plat. A revised plat correcting errors or making minor changes to the original recorded final plat as defined in Tex. Loc. Gov't Code Ann. § 212.016.
- 4. Amenity. An improvement providing an aesthetic, recreational or other benefit.
- 5. Base Flood Elevation. The flood having a one percent chance of being equaled or exceeded in any given year. The base flood shall be determined by using a fully developed watershed and the criteria for a 100-year storm.
- 6. Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.
- 7. Bond. Any form of a surety bond in an amount and form satisfactory to the City.
- 8. Building. Any structure or building for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind.
- 9. Capital Improvements Program. A proposed schedule of future capital improvement projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.



10. Comprehensive Plan. The planning document described in Chapter 211 of the Texas Local Government Code and being the Comprehensive Plan of the City and adjoining areas recommended by the Planning and Zoning Commission and approved by the City Council, as may be amended from time to time.
11. Concept Plan. A plan for development which enables the City to evaluate major impacts of a proposed development pursuant to the city's zoning regulations.
12. Contiguous. Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.
13. County. Tarrant County, Texas.
14. Developer. The person, business, corporation or association responsible for the development of the subdivision, development plat, or addition. In most contexts the terms Developer and Property Owner are used interchangeably in these regulations.
15. Development. Any man-made change to improved or unimproved real estate, including but not limited to, construction, enlargement or improvements of buildings, other structures, streets, alleys, paved surfaces, drainage facilities, park facilities or utilities. Development does not include agricultural activities.
16. Development Exaction. Any dedication of land or easements for, construction of, or contribution toward construction of a public improvement required as a condition of approval of a subdivision or development plat by the City pursuant to these regulations.
17. Development Plan. The plan authorizing development in a Planned Development District pursuant to the standards and procedures of the city's zoning regulations.
18. Drainage Way. All land areas needed to allow passage of the Base Flood, including sufficient access above the Base Flood elevation along each side of the parallel to the natural or excavated channel.
19. Easement. An interest in the real property of another, which is the dominant estate and is a right to use such real property for the purposes specified therein.
20. Engineer. A person duly authorized under the provisions of the Texas Engineering Practice Act, heretofore or hereafter amended, to practice the profession of engineering.

21. Escrow. A deposit of cash with the City in accordance with City policies.
22. Final Plat. The map of a subdivision or development plat to be recorded after approval by the City Council and any accompanying material and additional requirements as described in these regulations.
23. Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; or (2) the unusual and rapid accumulation or runoff of surface waters from any source.
24. Flood Plain. An area of land lying below the 100-year water surface elevation. Flood plains include but are not limited to those areas designated on FEMA-FIA maps, City maps or any other area with a ground elevation below the one hundred year water surface elevation.
25. Lot. A tract, plot or portion of a subdivision or development plat occupied or to be occupied by a building and its accessory buildings, or open space, park improvements or other facilities to be privately held and maintained, such as may be required under these or other development regulations, and having its principal frontage upon a public street or officially approved place.
26. Minor Plat. A plat involving not more than four lots fronting on an existing street, which does not require the creation of any new street or extension of municipal facilities and which meets the requirements of section 3.7 of these regulations.
27. Municipal Facility. An improvement owned and maintained by the City.
28. Mutual Access Easement. An officially approved, privately maintained drive, constructed to city street standards, open to unrestricted and irrevocable public access, serving two or more lots as their primary means of access.
29. Off-Site Improvement. Improvements required to be made on an area not included within the plat application, which are required to be made to serve the proposed development with adequate public facilities, including but not limited to, road widening and upgrading, stormwater facilities, and traffic improvements.
30. One Hundred (100) Year Water Surface Elevation (100-Yr WS El.) -That water surface elevation established by hydrologic/hydraulic analysis of a stream, river, creek, or tributary, using the 100-year fully developed watershed, based upon the 100-year rainfall event.

31. On-site Sewerage Facilities. Facilities acceptable to the Texas Commission on Environmental Quality and other regulatory agencies having jurisdiction over the treatment and disposal of wastewater on an individual lot and which do not require a waste discharge permit. On-site sewerage facilities includes septic tanks, treatment tanks, drain fields, absorption beds, evapo-transpiration beds and alternative treatment systems.
32. Performance Bond; and/or Surety Bond. Bond required to ensure the completion of a development project pursuant to Texas Local Government Code § 212.073.
33. Perimeter Street. Any existing or planned street, which abuts the subdivision or development to be platted. Perimeter streets may be included within or located outside the land to be platted.
34. Planned Development - Commercial District. A zoning district that allows a mix of retail, office, and civic uses within an urban framework, which is small in scale and compatible with adjacent developments pursuant to a concept plan, as authorized under Section 3 of The City of Pelican Bay Zoning Ordinance.
35. Planned Development - Residential District. A zoning district that combines standard residential zoning districts (base districts) that allows development of a residential project containing a mix of dwelling types and/or lot size, which units are clustered to achieve higher density than otherwise would be authorized within the base zoning district, pursuant to a concept plan, as authorized under Section 3 of The City of Pelican Bay Zoning Ordinance.
36. Planned Development District. A Planned Development - Commercial District, a Planned Development - Residential District, or any other zoning district authorized under the City's Zoning Regulations that requires approval of a concept plan prior to development within the district.
37. Planning and Zoning Commission. The agency appointed by the City Council as an advisory body to it relative to zoning, platting and planning matters and the physical development of the City and its environs and designated as the Planning and Zoning Commission.
38. Plat. The map of a proposed subdivision or development plat, as the context may indicate.
39. Preliminary Plat. The preliminary drawing or drawings, described in these regulations, indicating the proposed layout of the subdivision or development plat to be submitted to the City Council for approval (a Master Plat is a preliminary plat with multiple phases, see Section 3.3).

40. Property Owner. Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land comprising the subdivision or development, or any representative or agent thereto, who has express written authority to act on behalf of such owner.
41. Public Improvement. Any drainage way, roadway, parkway, sidewalk, utility, street light, pedestrian way, off-street parking area, fire lane, lot improvement, open space, buffer, screen, park, public trail, right-of-way, easement, or other facility for which the City or other governmental entity will ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established or that affects the health, safety or welfare of general public.
42. Public Improvement Agreement. A contract entered into by the developer and the City by which the developer promises to complete the required public improvements within the subdivision or development within a specified time period following final plat approval.
43. Record Drawings. Drawings that show, according to the best construction records available, the location of all public utilities constructed to serve the subdivision or development.
44. Remainder. The residual land left after platting of a portion of a tract.
45. Replatting. Any change in an approved or recorded plat, except as permitted as an amended plat, that affects any street layout on the map or area reserved or dedicated thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions or developments pursuant to Tex. Local Gov't Code §§ 212.014-.015 or §§ 212.041, et seq. Replatting includes the combination of lots into a single lot for purposes of development.
46. Resubdivision. The replatting of an approved subdivision plat.
47. Right-of-Way. A parcel of land occupied or intended to be occupied by a street or alley, and where appropriate, other facilities and utilities including sidewalks, railroad crossings, electrical, communication, oil or gas, water or sanitary or storm sewer facilities, or for any other special use. The use of right-of-way shall also include parkways and medians outside of pavement. The usage of the term "right-of-way for platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees or any other use involving maintenance by a public

agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

48. Security. The letter of credit, cash escrow or first and prior lien on the property provided by the applicant to secure its promises in the public improvement agreement.
49. Standard Street. A street or highway that meets or exceeds the requirements of the Engineering Design Manual and complies with the Thoroughfare Plan and the Functional Classifications in the Comprehensive Plan.
50. Standard Commercial or Residential Development District. Any residential or non-residential district established pursuant to the City's Zoning Regulations that is not a Planned Development - Commercial or Planned Development - Commercial Zoning District.
51. Street. A public thoroughfare, which affords the principal means of access to property, including any road, or other thoroughfare except an alley as defined herein.
52. Street Improvement. Any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, including but not limited to: sidewalks; drainage facilities to be situated in the right-of-way for such street or thoroughfare; traffic control devices; street lights; and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.
53. Subdivider. Any person who (1) having an interest in land causes it, directly or indirectly, to be divided into a subdivision or platted as an addition or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision or development, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or addition or any interest, lot, parcel site, unit or plat in a subdivision or development, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.
54. Subdivision. The division of any tract or parcel of land into two or more lots, for the purpose of, whether immediate or future, offer, sale, or lease or for the purpose of development, except as expressly exempted pursuant to Section 1.4. Subdivision also includes resubdivision. Subdivision also refers to the land to be so divided, as the context may indicate.
55. Substandard Street. An existing street or highway that does not meet the minimum requirements of the Engineering Design Manual and/or does not

- comply with the Thoroughfare Plan or the Functional Classifications in the Comprehensive Plan.
56. Surveyor. A Registered Professional Land Surveyor licensed under the laws of the State of Texas.
  57. Temporary Improvement. Improvements built and maintained by an owner during construction of the development of the subdivision or addition and prior to release of the performance bond or improvements required for the short term use of the property.
  58. Thoroughfare Plan. The official plan for streets and thoroughfares for the City of Pelican Bay, including transportation goals and policies, Functional Street Classifications and the Transportation System Diagram, contained in the City's adopted Comprehensive Plan
  59. City. The City of Pelican Bay, Texas, together with all its governing and operating bodies.
  60. Planning and Zoning Administrator. That person appointed by the Mayor and City Council to manage City Planning, Zoning and Subdivision reviews.
  61. City Council. The governing and legislative body of the City of Pelican Bay, Texas.
  62. City Engineer. The duly authorized Engineer of the City of Pelican Bay.
  63. Zoning Application. An application for a tentative or final development plan, site development plan or site plan.
  64. Zoning Regulations. The City of Pelican Bay Zoning Ordinance as adopted in 1985 (Ord. No. 40, passed 7/16/85), as amended.

**SECTION 3 PLATTING PROCEDURE****3.1 Coordination of Zoning and Platting Applications.**

- A. Coordination Required. Approval of applications for subdivision and development plats shall be coordinated with approval of zoning applications. In no case shall a subdivision or development plat application be accepted for filing until any pending zoning application for the same land has been finally approved.
- B. Development in Planned Development Zoning Districts. The following sequence of approval of zoning and platting applications is required for development within a Planned Development Zoning District. Whenever a subdivision or development plat application follows in sequence a zoning application listed in this section, such application shall not be accepted for filing until the zoning application has been approved and the proposed subdivision or development plat is consistent with such approved zoning application.
1. Within Planned Development - Residential Districts, development applications shall be submitted in the following sequence:
    - a. Tentative development plan
    - b. Preliminary subdivision plat
    - c. Final subdivision plat
  2. Within Planned Development - Commercial Districts, development applications shall be submitted in the following sequence:
    - a. Tentative development plan
    - b. Preliminary subdivision plat
    - c. Final subdivision plat

- C. Development in Standard Zoning Districts. The following sequence of approval of zoning and platting applications is required for development within standard zoning districts. Whenever a subdivision or development plat application follows in sequence a zoning application listed in this section, such application shall not be accepted for filing until the zoning application has been approved and the proposed subdivision or development plat is consistent with such approved zoning application.
1. For proposed residential developments within a standard zoning district, development applications shall be submitted in the following sequence:
    - a. Site development plan
    - b. Preliminary subdivision or development plat
    - c. Final subdivision or development plat
  2. For proposed non-residential developments within a standard zoning district, development applications shall be submitted in the following sequence:
    - a. Site plan
    - b. Preliminary subdivision or development plat
    - c. Final subdivision or development plat
- D. Consistency Required. No application for a subdivision plat or development plat shall be approved on land for which there is an approved development plan, site development plan or site plan unless the proposed plat conforms to such approved zoning application for the development.
- E. Filing Prohibited. A subdivision or development plat application shall be accepted for filing only after approval of the applicable zoning application identified in the sequences in Sections 3.1.B and 3.1.C. A platting application may be accepted for review with the zoning application that immediately precedes the platting application in sequence only if the applicant submits an unconditional waiver of all time limitations imposed by these regulations or state law for processing such application.
- F. Conditions. Conditions attached to approval of a development plan, site development plan or site plan shall be the basis for imposition of consistent conditions on preliminary subdivision or development plat applications.
- G. Replats Included. The provisions of this Section 3.1 apply equally to replats.



### 3.2 Statutory Procedure

- A. Time for Action on Plat. The Commission, or the Council as required by these regulations, shall take final action on each complete application for a preliminary or final subdivision or development plat, including applications for replats, within thirty (30) days after the date the complete application for plat approval is officially filed.
- B. Official Filing Date. The date from which the time period in Section 3.2.A. commences to run shall be the date the plat is deemed filed in accordance with this section. The acceptance or processing by any City official of a plat application prior to the official filing dates established in this section hereby is deemed to be null and void and, upon discovery, shall be grounds for denial of such plat application.
1. Official Filing Date for Commission. The official filing date for plats to be initially reviewed by the Commission shall be the date on which the Planning and Zoning Administrator or his designee certifies in writing that the plat application is complete in accordance with the regulations governing submission requirements in this Section 3. No application for plat approval shall be deemed filed with the Commission until the Administrator or his designee has certified the application as complete.
  2. Official Filing Date for Council. The official filing date for Council review shall be the date final action is taken on the plat application by the Commission.
  3. Official Date for Modified Plat Application. If the applicant elects to withdraw the plat application in order to make modifications recommended by the Commission or to satisfy conditions attached by the Council, the official filing date shall be the date on which the Planning and Zoning Administrator or his designee certifies in writing that the modified plat application is complete in accordance with the regulations governing submission requirements in this Section 3.
  4. Official Date for Minor Plat Application. The official filing date for minor plat applications shall be the date on which the Planning and Zoning Administrator or his designee certifies in writing that the plat application is complete and qualifies as a minor plat application, in accordance with the regulations governing submission requirements in this Section 3.
- C. Compliance Procedure. The Administrator shall place the plat application on a regularly scheduled or specially called meeting of the Commission or Council, as the case may be, prior to the expiration of thirty (30) days following the official filing date. The Commission or Council shall approve, conditionally approve or deny such application within such period.

### 3.3 Master Plats

- A. Master Plat Applications. A property owner may elect to divide property into phases for purposes of development through the use of a master plat, which shall be processed as an application for preliminary subdivision plat approval. Master plats may only be submitted for residential development within a standard zoning district. The master plat application shall be consistent with the approved site plan if the property is part of a residential planned development.
- B. Schedule for Phased Development. Master plats shall be accompanied by a schedule summarizing the intended plan of development in phases and the proposed dedication of land or rights-of-way for and construction of public improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision. All phases of the development shall be included in the preliminary plat application. Any contiguous land owned by the applicant that is not intended to be a part of the proposed staged development shall be identified with the designation "remainder tract." A remainder tract shall be identified on the plat application, but shall not be included within the boundaries of the proposed plat.
- C. Expiration of Master Plats. Master plats shall expire as provided in Section 3.6.8.B.

### 3.4 Remainder Tracts

- A. Remainder tracts shall not be considered lots and shall not be included within the boundaries of the preliminary plat. Approval of a preliminary plat shall not constitute approval of development on a remainder tract.
- B. Information accompanying a preliminary plat application for remainder tracts shall be deemed to be an aid to the Commission and the Council in taking action on the preliminary plat application and may be used to determine whether development of the land subject to the plat will be adequately served by public facilities and services and is otherwise in compliance with these regulations, taking into account the development of the property as a whole. Based upon such information, the Commission or the Council may require that additional land be included in the preliminary plat in order to satisfy the standards in these regulations.

### 3.5 Pre-Platting Conference

Prior to the filing of a preliminary plat application, the owner may request a pre-platting conference with the Planning and Zoning Administrator or his designee for familiarization with the City's subdivision and property development regulations and the relationship of the proposed subdivision or development to the Pelican Bay Comprehensive Plan, Zoning Regulations and Engineering Design Manual. At such meeting, the general character of the development may be discussed, and items may be included concerning zoning, the availability of existing and demand for new utility service, street requirements, and other pertinent factors related to the proposed subdivision or development. At the pre-platting

conference, the subdivider may be represented by his/her land planner, engineer, or surveyor.

### 3.6 Procedure for Preliminary Subdivision Plat Approval

#### 3.6.1 Purpose and Applicability

- A. Purpose. The purpose of the preliminary subdivision plat is to assure conformity of the proposed development with requirements and conditions imposed in approved zoning applications for the land subject to the proposed plat and to evaluate construction plans for public improvements or to provide adequate security for construction of the same.
- B. Applicability. A preliminary subdivision plat shall be required for any subdivision that is not a minor subdivision.

#### 3.6.2 Application Requirements

Twenty-five (25) copies of the proposed preliminary subdivision plat shall be submitted to the Planning and Zoning Administrator, and shall be accompanied by the same number of copies of additional documents set forth in subsection B, unless otherwise provided therein.

The preliminary subdivision plat shall be prepared by or under the supervision of a registered professional land surveyor in the State of Texas and shall bear his/her seal, signature and date on each sheet (sample Surveyor's Certificate is found in Appendix B). No application for a preliminary subdivision plat shall be certified as complete by the Planning and Zoning Administrator unless the application is accompanied by the following:

- A. Preliminary Subdivision Plat Contents. The proposed preliminary subdivision plat shall be submitted on sheets a maximum size of twenty-four (24) inches by thirty-six (36) inches and drawn to a scale of one hundred (100) feet to the inch, or in the case of small subdivisions, fifty (50) feet to the inch. In cases of large developments, which would exceed the dimensions of the sheet at a one hundred (100) foot scale, preliminary subdivision plats may be two hundred (200) feet to the inch. The plat shall contain the following graphic information:
  - 1. The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract. The bearing system used for the plat shall be shown.
  - 2. True bearings and distances to the nearest established survey lines and established subdivisions and additions, which shall be accurately described on the plat.
  - 3. Accurate ties to the abstract and survey corners as required by Texas Surveying law and the amount of acreage in each abstract shown.

4. The exact layout including:
  - a. Proposed streets and alleys with names, sidewalks, easements, blocks, parks, etc., with principal dimensions.
  - b. The length of all arcs, radii, internal angles, points of curvature, length, and bearings of the tangents.
  - c. All easements for rights-of-way provided for public services or utilities and any limitations of the easements.
  - d. All lot numbers and lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street alley lines.
5. The exact location of all contiguous property owned or controlled by the applicant. A separate drawing may be submitted for this purpose.
6. The location of all existing property lines, buildings, sewer or water mains, fire hydrants, gas mains or other underground structures, easements of record or other existing features within the area proposed for subdivision.
7. A designation of the zoning district(s) for the land included within the subdivision plat.
8. All physical features of the property to be subdivided or developed, including location and size of all water courses, ravines, bridges, culverts, existing structures, drainage area in acres or acreage draining into subdivisions and additions, and other features pertinent to subdivision. The outline of wooded areas or the location of important individual trees may be required.
9. The angle of intersection of the centerlines of all intersecting streets which are intended to be less than ninety (90) degrees.
10. Covenants and restrictions - draft of any protective covenants whereby the subdivider proposes to regulate land use or development standards in the subdivision, or in which land is to be dedicated to a homeowners association.
11. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
12. The name and location of a portion of adjoining subdivisions or developments shall be drawn to the same scale and shown in dotted lines adjacent to the tract proposed for subdivision in sufficient detail to show accurately the existing streets and alleys and other features that may

influence the layout and development of the proposed subdivision. Where adjacent land is not subdivided, the owner's name of the adjacent tract shall be shown.

13. Front setback lines.
14. Special restrictions including, but not limited to, water line, sanitary sewer line, drainage, and landscape easements; fire lanes; screening; buffering; standard notes for floodway, if applicable; finished floor elevation for lots adjacent to a floodway, within a floodplain or having an on-site sewerage facility; and other standard notes.
15. Contours at five (5) foot intervals are required.
16. Proposed name of the subdivision.
17. Name, address and phone number of the property owner and the name of the surveyor who prepared the plat.
18. North arrow, scale, site location map and date.
19. Certification by a surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown, and that the survey correctly shows the location of all visible easements and rights-of-way and all rights-of-way, easements and other matters of record affecting the property being platted.
20. A notation in the legend labeling the document "Preliminary Plat" and identifying the scale.
21. Designation of remainder tracts (shown outside the boundaries of the area to be platted).
22. For master plats, designation of the boundaries of each phase.

B. Accompanying Documents

1. Preliminary plats shall be accompanied by a lot grading plan drawn at a scale of one hundred (100) feet to one (1) inch. Lot grading plans shall clearly show drainage patterns and elevations sufficient to determine drainage patterns and finished grade slopes. Lot grading plans shall be consistent with any open space or reclamation plans approved under the Zoning Regulations.
2. Boundary survey closure and area calculations shall be included.

3. Additional documents necessary for dedication or conveyance of easements or rights-of-way as required by the City to satisfy adequate public facilities standards shall be provided. The City may, in some instances, require the conveyance of fee simple title for certain rights-of-way.
  4. 15 copies of approved tentative development plans, site development plans or site plans for the land included within the preliminary plat and remainder tracts shall be submitted.
  5. Floodplain Reclamation Permit application.
  6. A receipt shall be submitted with the preliminary plat showing that the filing fees as prescribed by the City Council have been paid.
  7. For master plats, a schedule summarizing the intended plan of development in phases and the proposed dedication of land or rights-of-way for and construction of public improvements, whether on-site or off-site, intended to serve each proposed phase of the subdivision.
  8. For remainder tracts, the zoning designation for the tract and any pending applications for rezoning, tentative development plans, site development plans or site plans shall be provided. Information also shall be provided illustrating the location of all existing and proposed water, wastewater roadway, and drainage easements or facilities located or proposed within the boundaries of the remainder tract.
  9. Preliminary construction plans consistent with approved zoning applications and the proposed preliminary subdivision plat shall be submitted.
- C. Format for Documents. All documents shall be submitted in both printed and electronic versions unless otherwise specified. For maps and plats, the prints shall be both on full size 24" x 36" sheets and on approximately half-size (11" x 17" sheets). Other supporting documents shall be printed on 8½" x 11" sheets.
1. Electronic formats for maps and plats shall be one of the following:
    - a. AutoCAD drawing files - DWG format
    - b. AutoCAD data exchange - DXF format
    - c. Bitmapped - BMP format at a resolution of not less than 600 dpi.
    - d. JPEG - at a resolution of not less than 600 dpi.
    - e. Encapsulated PostScript - EPS format.
    - f. TIFF - at a resolution of not less than 600 dpi.
  2. Electronic formats for text and photographic documents shall be one of the following:

- a. Microsoft Word
  - b. Corel WordPerfect
  - c. Microsoft PowerPoint
  - d. Electronic formats listed above except AutoCAD
3. Electronic copies may be submitted on 3.5" floppy disks (small projects only) or on a CD (for large projects).

### 3.6.3 Staff Review and Distribution

- A. Determination of Completeness. The Planning and Zoning Administrator or his designee shall determine whether the preliminary subdivision plat application is complete within ten (10) working days of the date the application is submitted. The Administrator shall provide the applicant with written notification of his determination. If the application is incomplete, the Administrator shall return the application to the applicant with an explanation of additional items or documents that must be provided before the application can be considered complete. If the application is complete, the Administrator shall file the application with the Commission for decision and place the application on the agenda of a regularly scheduled or specially called meeting of the Commission.
- B. Distribution for Review. Preliminary subdivision plats and other required documents shall be distributed by the Planning and Zoning Administrator to the following:
1. Planning and Zoning Commission or designee (1 printed copy). Electronic copies are not required.
  2. City Council (6 printed copies). Electronic copies are not required.
  3. Planning and Zoning Administrator (6 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
  4. City Engineer (2 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
  5. Electricity Provider (1 printed copy)
  6. Natural Gas Provider (1 printed copy)
  7. Telephone Service Provider (1 printed copy)
  8. Cable Service Provider (1 printed copy)
  9. Azle Independent School District (1 printed copy)

## 10. City Planner/Consultant (1 electronic copy)

At least six (6) days prior to the meeting of the Planning and Zoning Commission at which the preliminary subdivision plat application is to be considered, each agency listed above other than City officials shall submit written recommendations concerning the plat application to the Planning and Zoning Administrator for consideration by the Commission.

- C. Report. A written report containing recommendations on the proposed preliminary subdivision plat shall be prepared by the City Engineer, incorporating the comments of the Planning and Zoning Administrator and other officials and agencies to whom a request for review has been made. The report of the City Engineer shall be submitted to the Planning and Zoning Commission prior to the Commission's review of the plat application. Any fee for reviewing the proposed plat application by the City Engineer shall be charged to the applicant.

### 3.6.4 Standards for Approval

Neither the Commission nor the Council shall recommend approval of, approve or conditionally approve a preliminary subdivision plat unless the following standards have been met:

1. The plat conforms to approved zoning applications for the land subject to the preliminary subdivision plat and any conditions attached thereto.
2. The plat conforms to the goals and policies of the Pelican Bay Comprehensive Master Plan and the Thoroughfare Plan incorporated therein.
3. Easements or rights-of-way for all public water, sanitary sewer, roadway, and drainage facilities have been designated.
4. Fire lanes access easements or street rights-of-way have been provided for access to all fire hydrants and fire department connections.
5. Easements have been designated for all landscaped buffers, public trails and open space.
6. The plat meets all other requirements of these subdivision and property development regulations.
7. Provision for public facilities adequate to serve the development of the property in accordance with Section 1.2(G) of these regulations has been made.
8. Construction plans are complete and consistent with approved zoning applications and the preliminary subdivision plat.



9. For master plats, each phase of the development is to be supported by timely provision of adequate public facilities.
10. Payment of applicable fees and escrows has been made.

### 3.6.5 Approval Procedures

- A. Action by Commission. The Commission shall consider and take action on the preliminary subdivision plat application at a regularly scheduled or specially called meeting. Following review of application, the Commission shall recommend approval of the application as submitted, approval of the application subject to conditions, or denial of the application. The action of the Planning and Zoning Commission shall be noted on two (2) copies of the preliminary subdivision plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and the other retained in the files of the City staff. A notation of the action taken on each preliminary subdivision plat application and requisite reasons therefore shall be entered in the minutes of the Planning and Zoning Commission.
- B. Processing of Plat Following Commission Recommendation. Following action by the Commission recommending approval, approval subject to conditions or denial of the preliminary subdivision plat application, the Planning and Zoning Administrator shall place the application on the agenda of a regularly scheduled or specially called meeting of the City Council for review. The preliminary subdivision plat application, together with the recommendations established by the Planning and Zoning Commission, shall be forwarded to the City Council for its consideration. Six (6) additional copies of the application shall be submitted to the City Council through the Planning and Zoning Administrator not less than fifteen (15) days prior to the City Council meeting at which the plat is to be considered. The applicant's failure to have a representative at the meeting shall be grounds for disapproval of the application.
- C. Withdrawal of Plat. Following a recommendation of conditional approval or denial of the preliminary subdivision plat application by the Commission, the applicant may elect within five (5) working days of the Commission's action to withdraw the plat application in order to prepare amendments or modifications responsive to the Commission's recommendation. Written notice of withdrawal shall be sent to the Planning and Zoning Administrator within such period. In such event, the Planning and Zoning Administrator shall not schedule the plat application for consideration by the City Council. Upon resubmission of the modified preliminary subdivision plat application, the plat shall be considered by the Commission as a new application.
- D. Council Action. After review of the preliminary subdivision plat application, all staff reports, the Commission's recommendations and the record of proceedings before the Commission, and following consideration of all materials presented at the public meeting, the City Council shall approve, approve subject to conditions, or

deny the preliminary subdivision plat application. The action of the Council shall be noted on two (2) copies of the preliminary subdivision plat. One (1) copy shall be returned to the applicant and the other retained in the City files.

- E. Conditions. In order to assure that the preliminary subdivision plat application is in compliance with standards for approval, the Commission in its recommendation to the Council or the Council in taking action on the application may identify requirements or attach conditions to be satisfied prior to final subdivision plat approval.

### 3.6.6 Effect of Council Action

- A. Approval or conditional approval of a preliminary subdivision plat application by the Council constitutes authorization for the City Engineer to release construction plans following review and final approval. Upon release of the construction plans, the City Engineer shall issue a certificate indicating the construction plans have been released and construction of the public improvements are thereafter authorized and that grading by the property owner may commence. Additional certificates may be issued by the City Engineer authorizing the construction of private utilities on a phased schedule.
- B. Approval of a preliminary subdivision plat application also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit an application for final plat approval. Conditional approval of the preliminary plat by the City Council, however, shall not constitute approval of the final plat.
- C. If the City Council denies the preliminary subdivision plat application, the applicant may not file a substantially similar application for a period of six (6) months following such denial.

### 3.6.7 Amendments to Preliminary Plat

- A. Proposed Amendments. At any time following approval of a preliminary subdivision plat application by the City Council, and before the expiration of such approval, a property owner may request an amendment.
1. A minor amendment shall include minor changes of street and alley alignments, lengths, and paving details, the adjustment of lot lines not resulting in new lots, and variation from other details of the original preliminary plat as may be designated by the Planning and Zoning Commission, provided that such changes comply with these regulations. Major amendments include all other proposed changes.
  2. The Commission may approve or deny a minor amendment subject to the standards in these regulations. Major amendments shall be approved under

the same procedures and standards required for approval of the original preliminary subdivision plat application.

- B. Approval. The Commission shall recommend and the Council shall approve, conditionally approve or deny any proposed major amendment and may make any modifications to the terms and conditions of preliminary subdivision plat approval reasonably related to the proposed amendment.
- C. Retaining Previous Approval. Unless the previous preliminary subdivision plat has been withdrawn, if the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the City, the applicant may withdraw the proposed amendment and the previously approved preliminary subdivision plat shall remain in effect, subject to all conditions of approval and subject to expiration dating from the original approval.

### 3.6.8 Expiration of Approval, Extension and Reinstatement Procedure

- A. Expiration of Preliminary Subdivision Plat. Unless a shorter time is required by the City's zoning regulations or by conditions attached to the original approval of the application, the approval of a preliminary subdivision plat application shall remain in effect for a period of two (2) years from the date that the application was approved or conditionally approved by the City Council, during which period the applicant shall submit and receive approval for a final subdivision plat for the land subject to the preliminary subdivision plat. If a final subdivision plat application has not been approved within two-year period, the preliminary subdivision plat approval shall expire and such plat shall be null and void. Thereafter, the property owner shall be required to obtain approval for a new preliminary subdivision plat subject to the then existing Pelican Bay zoning, subdivision and property development regulations prior to development of the land.
- B. Master Plats. An application for final subdivision plat shall be submitted and approved for the initial phase of an approved master plat within two years from the date the master plat was approved or conditionally approved by the City Council. Thereafter, for each subsequent phase of the development, an application for final subdivision plat shall be submitted and approved within two years from the date the preceding phase of the master plat was approved or conditionally approved by the City Council. If a final subdivision plat application has not been approved within such two-year period for any phase of the master plat, preliminary subdivision plat approval for such phase and all succeeding phases shall expire and such preliminary subdivision plats shall be null and void. Thereafter, the property owner shall be required to obtain approval for a new preliminary subdivision plat for all such expired phases of the original master plat, subject to the then existing Pelican Bay zoning, subdivision and property development regulations prior to development of the land.

COPY

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- C. Extension of Approval. At least sixty (60) days prior to the expiration of approval for the preliminary subdivision plat, the property owner may petition the City Council to extend or reinstate the approval. Such petition shall be considered and decided at a public meeting of the Council prior to expiration of the preliminary subdivision plat.
1. In determining whether to grant such request, the Council may take into account the reasons for delay in development of the land, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision and property development regulations shall apply to the plat. The Council shall extend the plat or deny the request, in which instance the plat shall expire in accordance with this section.
  2. The Council may extend the time for expiration of the plat for a period not to exceed one (1) year.

### 3.7 Procedure for Final Subdivision Plat Approval

#### 3.7.1 Purpose and Applicability

- A. Purpose. The purpose of a final subdivision plat is to enable recordation of the subdivision of property that includes the elements and is in compliance with the requirements of Tex. Loc. Gov't Code Ch. 212 and that meets the requirements of these subdivision and property development regulations.
- B. Applicability. A final subdivision plat shall be required for all subdivisions of property.

#### 3.7.2 Timing of Public Improvements

- A. Unless the City Council authorizes deferral of such obligations pursuant to subsection B, all public improvements serving a subdivision shall be installed, offered for dedication and accepted by the City prior to issuance of a building permit. All landscaping, buffering, screening and erosion control measures shall be completed and be in good condition as determined by the City.
- B. The City Council upon petition by the applicant, or upon its own motion, may permit or require the deferral of the construction of public improvements if, in its sole judgment, deferring the construction would not result in any harm to the public, or offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. If the Council authorizes deferral of construction of some or all public improvements required to support the subdivision, provision for constructing and assuring construction of such improvements shall be made in accordance with SECTION 4 of the final subdivision plat by the Council.

### 3.7.3 Application Requirements

Twenty-five (25) copies of the final subdivision plat, together with a reproducible transparent drawing, prepared to a scale of 1" = 100' or larger, shall be submitted to the Planning and Zoning Administrator, and shall be accompanied by the same number of copies of additional documents set forth in subsection B, unless otherwise provided therein.

The final subdivision plat shall be prepared by or under the supervision of a registered professional land surveyor in the State of Texas and shall bear his/her seal, signature and date on each sheet (sample surveyor's certificate is found in Appendix B). No application for a final subdivision plat shall be certified as complete by the Planning and Zoning Administrator unless the application is accompanied by the following:

A. Final Subdivision Plat Contents. When more than one sheet is used for a plat, a key map showing the entire subdivision at smaller scale with block numbers and street names shall be shown on one of the sheets or on a separate sheet of the same size. The final subdivision plat shall contain the following graphic information:

1. All requirements set forth for preliminary subdivision plats in § 3.6.2.A, except the following:
  - a. Existing or proposed buildings and utilities.
  - b. Physical features.
  - c. Contours.
  - d. Zoning information.
2. The name of the owner and/or subdivider and of the surveyor responsible for the plat and the following language:

Notice: Selling a portion of this addition by metes and bounds is a violation of the City Ordinance and state law and subject to fines and withholding of utilities and building permits.

3. The name of the subdivision or development and adjacent subdivisions or developments, the names of streets (to conform wherever possible to existing street names) and number of lots and blocks, in accordance with a systematic arrangement. In case of branching streets, the lines of departure shall be indicated.
4. An accurate boundary survey of the property, with bearings and distances, referenced to survey lines and established subdivisions or developments, and showing the lines of adjacent lands and the lines of adjacent streets and alleys, with their width and names. Street, alley and lot lines in adjacent subdivisions or developments shall be shown in dashed lines. The bearing system used for the plat shall be shown.

- 5. Location of proposed lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimal fractions of feet, with the length of radii and of arcs of all curves, all angles, and with all other engineering information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points. The plat shall be marked with a notation indicating formal offers of dedication.
- 6. The location of building lines on front and side streets and the location of utility easements.
- 7. The accurate location, material, and size of all monuments approved by the City Engineer. For all subdivisions or developments, global positioning systems (GPS) shall be used to establish the location of a minimum of two corners of the subdivision. The establishing of the location of one additional monument by GPS may be required for each additional twenty acres or fraction thereof for developments that are larger than twenty acres. These monuments shall be tied vertically and horizontally to the City's existing GPS coordinate system. All GPS coordinates shall be determined such that the maximum error does not exceed 0.05 feet. Elevations and the location of all other subdivision corner monuments shall be established to at least third order accuracy.
- 8. The following certificates shall be placed on the plat in a manner that will allow them to be clearly visible on the Final Plat.

RECOMMENDED FOR APPROVAL BY THE PLANNING AND ZONING COMMISSION OF PELICAN BAY, TEXAS, on the \_\_\_\_ day of, 20\_\_.

ATTEST:

Chairman

City Secretary

APPROVED BY THE CITY COUNCIL OF PELICAN BAY, TEXAS, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

Mayor

City Secretary

B. Accompanying Documents

- 1. An instrument of dedication shall be provided that is signed and acknowledged by the owner or owners and by all other parties who have a mortgage or lien interest in the property, showing all restrictions, reservations and/or easements, if any, to be imposed and reserved in connection with the

addition. Easements shall be provided for all landscaped areas, open space areas, public trails, utilities and drainage ways, whether within the platted area or off site, that will allow but not require the City to maintain these areas.

2. A certificate of dedication shall be provided incorporating irrevocable offers of dedication to the public of all streets, public highways, alleys, parks, easements, and other land intended for public use, signed by the owner or owners and by all other parties who have a mortgage or lien interest in the property. The certificate of dedication shall incorporate the standard easement language of the City of Pelican Bay as jointly prepared by the City Attorney and the City Engineer. All deed restrictions that are to be filed with the plat shall be submitted with the final plat.
3. A tax certificate showing that all taxes then due have been paid on the property shall be provided.
4. Certification shall be provided by a surveyor, duly licensed by the State of Texas, that the plat represents a survey he made, and that all the necessary survey monuments are correctly shown thereon, in accordance with section 5.1(E).
5. Three (3) sets of final construction plans shall be provided. Unless a public improvement agreement has been executed in accordance with section 4.1, the final subdivision plat also shall be accompanied by one Mylar reproducible and electronic set of "record drawings" prepared in accordance with Section 4.3 and meeting the City of Pelican Bay Engineering Design Manual of the construction plans for all water, sanitary sewer, drainage and paving facilities and any other public improvements required to serve the subdivision.
6. A certified grading plan prepared by a registered professional land surveyor showing finished grade elevations and demonstrating that the completed grading is consistent with the approved grading plan shall be provided.
7. Certification or approval of the plat by all electric, gas and telephone companies that will serve the development shall be provided and that all easements that are required by these utility companies have been described on the plat.
8. If a public improvement agreement is proposed in lieu of construction of public facilities, a complete draft of the public improvement agreement prepared in accordance with Section 4.1 of these regulations, together with a security authorized in Section 4.1 in a form satisfactory to the City Attorney and in an amount established by the City Council upon recommendation of the City Engineer, shall be provided. The agreement shall include a



provision that the property owner shall comply with all terms of the final subdivision plat approved by the Council.

9. A plat fee, together with other authorized fees applicable to the development, in an amount as set by the City Council.
- C. Format for Documents. Unless otherwise specified, all documents shall be submitted in both printed and electronic versions as required by § 3.6.2.

#### 3.7.4 Staff Review and Distribution

- A. Determination of Completeness. The Planning and Zoning Administrator or his designee shall determine whether the final subdivision plat application is complete within ten (10) working days of the date the application is submitted. The Administrator shall provide the applicant with written notification of his determination. If the application is incomplete, the Administrator shall return the application to the applicant with an explanation of additional items or documents that must be provided before the application can be considered complete. If the application is complete, the Administrator shall file the application with the Commission for decision and place the application on the agenda of a regularly scheduled or specially called meeting of the Commission.
- B. Distribution for Review. Final subdivision plats and other required documents shall be distributed by the Planning and Zoning Administrator to the following:
1. Planning and Zoning Commission (7 printed copies). Electronic copies are not required.
  2. City Council (6 printed copies). Electronic copies are not required.
  3. Planning and Zoning Administrator (6 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
  4. City Engineer (2 printed copies, 1 electronic copy and one 11"x17" reduced scale print)
  5. Pelican Bay Independent School District (1 printed copy)
  6. City Planner/consultant (1 printed copy and 1 electronic copy)
- C. Report. A written report containing recommendations on the proposed final subdivision plat shall be prepared by the City Engineer, and City Planner, incorporating the comments of the Planning and Zoning Administrator and other officials. The reports of the City Engineer shall be submitted to the Planning and Zoning Commission prior to the Commission's review of the plat application. Any

fee for reviewing the proposed plat application by the City Engineer shall be charged to the applicant.

### 3.7.5 Standards for Approval.

Neither the Commission nor the Council shall recommend approval of or approve a final subdivision plat unless the following standards have been met:

- A. The plat substantially conforms to the preliminary subdivision plat, if a preliminary subdivision plat was required, including master plat requirements for phasing and provision of adequate public facilities.
- B. The plat satisfies conditions attached to approval of the preliminary subdivision plat.
- C. Required public improvements have been constructed and accepted or a public improvement agreement has been accepted by the City providing for the subsequent completion of improvements.
- D. The plat conforms to approved zoning applications for the land subject to the final subdivision plat and any conditions attached thereto.
- E. The plat meets all other requirements of these subdivision and property development regulations.
- F. Payment of all fees has been made.

### 3.7.6 Approval Procedures

- A. Action by Commission. The Commission shall consider and take action on the final subdivision plat application at a regularly scheduled or specially called meeting. Following review of the application, the Commission shall recommend approval or denial of the application. In denying the application, the Commission may identify conditions that, if satisfied, would lead to approval of the application. The action of the Planning and Zoning Commission shall be noted on two (2) copies of the final subdivision plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and the other retained in the files of the City staff. A notation of the action taken on each final subdivision plat application and requisite reasons therefore shall be entered in the minutes of the Planning and Zoning Commission.
- B. Processing of Plat Following Commission Action. Following action by the Commission recommending approval or denial of the final subdivision plat application, the Planning and Zoning Administrator shall place the application on the agenda of a regularly scheduled or specially called meeting of the City Council for review. The final subdivision plat application, together with the recommendations established by the Planning and Zoning Commission, shall be forwarded to the City

Council for its consideration. Seven (7) additional copies of the final subdivision application shall be submitted to the City Council through the Planning and Zoning Administrator not less than fifteen (15) days prior to the City Council meeting at which the plat is to be considered. The applicant's failure to have a representative at the meeting shall be grounds for disapproval of the application.

- C. Withdrawal of Plat. Following a recommendation of denial of the final subdivision plat application by the Commission, the applicant may elect within five (5) working days of the Commission's action to withdraw the plat application in order to prepare amendments or modifications responsive to the Commission's recommendation. Written notice of withdrawal shall be sent to the Planning and Zoning Administrator within such period. In such event, the Planning and Zoning Administrator shall not schedule the plat application for consideration by the City Council. Upon resubmission of the modified final subdivision plat application, the plat shall be considered by the Commission as a new application.
- D. Council Action. After review of the final subdivision plat application, all staff reports, the Commission's recommendations and the record of proceedings before the Commission, and following consideration of all materials presented at the public meeting, the City Council shall approve, deny or deny subject to reconsideration the final subdivision plat application. In denying the application subject to reconsideration, the Council shall identify conditions that, if satisfied, would lead to approval of the application. The action of the Council shall be noted on two (2) copies of the final plat. One (1) copy shall be returned to the applicant and the other retained in the City files. Notation of the action taken on the final subdivision plat application and the requisite reasons therefore shall be entered in the minutes of the Council.

### 3.7.7 Effect of Council Action

- A. Effect of Approval. Approval of a final subdivision plat application by the City Council shall serve as certification that the plat complies with these subdivision and property development regulations. Approval of the application also shall authorize the mayor to execute any public improvement agreement submitted with the application. The owner shall be notified in writing that the final subdivision plat has been approved.
- B. Right to Record. An approved and signed final plat may be filed with the County as a record of the subdivision of land, and the dedication of rights-of-way, easements and other covenants 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.
- C. Denial With Reconsideration. Denial of a final subdivision plat application by the City Council subject to reconsideration shall authorize the applicant to file a modified application with the City Council without prior review by the Commission.

In such event, the official filing date shall be the date the date on which the Planning and Zoning Administrator certifies that the modified final subdivision plat application is complete.

- D. Denial Without Reconsideration. Denial of a final subdivision plat application by the City Council without recourse to reconsideration shall require the applicant to prepare a new application in accordance with the requirements and subject to the procedures of this Section 3.7, provided that such application is finally approved prior to expiration of the approved preliminary subdivision plat.

### 3.7.8 Signing and Recording of Final Plat

- A. When a public improvement agreement and security are required, the Mayor and the City Engineer shall endorse approval on the final plat after the agreement and security have been approved by the Council, and all the conditions pertaining to the final plat have been satisfied.
- B. When installation of public improvements is required prior to approval of the final plat, the Mayor and Engineer shall endorse approval on the final plat after all conditions of approval have been satisfied and all public improvements satisfactorily completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the City as shown by a certificate signed by the City Engineer stating that the necessary dedication of public lands and installation of public improvements has been accomplished.
- C. It shall be the responsibility of the property owner to file the final plat with the 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 City Attorney. The final plat, bearing all required signatures, shall be recorded after final approval and within ten (10) working days of its receipt. One (1) mylar copy and two paper copies of the recorded final plat will be provided to the City by the property owner.
- D. A developer or subdivider, at his/her option, may obtain approval of a portion or a section of a subdivision provided he/she meets all the requirements of this ordinance with reference to such portion or section in the same manner as is required for a complete subdivision. In the event a subdivision and the Final Plat thereof is approved by the City Council in sections, each Final Plat of each section is to carry the name of the entire subdivisions, but is to bear a distinguishing letter, number or subtitle. Block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in sections.

### 3.8 Petition for Hardship Exception.

- A. Petition for Exception. The applicant for a subdivision application or the owner of the property subject thereto may petition the City Council for exception of any

standard of this Subdivision Ordinance or the imposition of a condition related thereto, where the petitioner alleges that unreasonable hardships will result from strict compliance with such standard or condition.

- B. Procedures. A petition for an exception shall be submitted in writing to the Planning and Zoning Administrator (or his designee) by the petitioner at the time the subdivision application is filed for the consideration by the Planning and Zoning Commission. The petition shall state fully the grounds for the application, and all of the facts relied upon by the petitioner. The City staff shall prepare a report evaluating the request for exception and make its recommendation to the Commission. The Commission shall make its recommendation and the City Council shall finally act on the petition for an exception in conjunction with the action taken by each on the subdivision application.
- C. Criteria for Approval. The City Council, following recommendation by the Planning and Zoning Commission, may grant or conditionally grant the exception only upon finding that:
1. Granting the exception will not be detrimental to the public safety, health or welfare, and will not be injurious to other property;
  2. The conditions upon which the request for a exception is based are unique to the property for which the exception is sought, and are not applicable generally to other property;
  3. 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 standard is strictly applied;
  4. The exception will not result in variation of the provisions of the Zoning Ordinance or Comprehensive Plan, Future Land Use Plan, Thoroughfare Plan, Water and Wastewater Master Plans, or other adopted plans; and.
  5. The exception is not contrary to the intent and purpose of these subdivision regulations.
- D. Conditions. In approving a exception, the City Council may require such conditions as will, in its judgment, secure substantially the purposes described in Section 1.2.

### 3.9 Petition for Relief

- A. Petition for Relief. The applicant for a subdivision application or the owner of the property subject thereto may petition the City Council for relief from the application of any provision of this Subdivision Ordinance that requires dedication of an interest in land for rights-of-way or construction of capital improvements in order to provide

adequate water, wastewater, roadway or drainage facilities to serve the proposed subdivision, or the imposition of a condition related thereto. The petition must allege that application of the provision or the imposition of conditions relating to the provision and requiring such dedication of land or construction of capital improvements is not roughly proportional to the nature and extent of the impacts created by the proposed development on the City's water, wastewater, roadway or drainage facilities system, as the case may be, or does not reasonably benefit the proposed development. The petition may also allege that the application of the provision or the imposition of conditions relating to the provision deprives the applicant or the property owner of the economically viable use of the land, or of a vested property right.

1. Prior to decision by the Commission on a subdivision application subject to this section, an applicant who proposes to challenge the application of a provision that requires dedication of an interest in land for rights-of-way or construction of capital improvements to serve the proposed subdivision, or the imposition of conditions related thereto, shall file a notice of intent to appeal such determination to the City Council. Approval of such subdivision application by the Commission shall include a condition that approval is subject to the Council's decision on the petition for relief.
  2. If a petition for an exception from the requirements of this Subdivision Ordinance pursuant to Section 3.10 has been filed by the petitioner, the petition for relief may be submitted in conjunction with the Council's review of such request.
  3. If the subdivision application otherwise may be finally decided by an administrative officer or the Commission, the petition for relief shall be submitted by the petitioner within ten (10) days of receiving the staff report applying the requirement or imposing the condition.
- B. Study required. The applicant or property owner shall provide a study in support of the petition for relief that includes the following information:
1. Total capacity of the City's water, wastewater, roadway or drainage facilities system to be utilized by the proposed development, employing standard measures of capacity and equivalency tables relating the type of development proposed to the quantity of system capacity to be consumed by the development. If the subdivision application is part of a phased development project, such information also shall be provided for the entire development proposed, including any phases already developed.
  2. Total capacity to be supplied to the City's water, wastewater, roadway or drainage facilities system by the proposed dedication of an interest in land for rights-of-way or construction of capital improvements. If the subdivision application is part of a phased development project, the information shall

include any capacity supplied by prior dedications or construction of capital improvements.

3. The study supplied by the petitioner shall be evaluated by City staff, who shall make its recommendation to the City Council based upon the information contained in the study and any additional information related to the petition produced by the staff. In evaluating the petition, the staff shall take into account the maximum amount of any impact fees to be assessed against the development, as well as any traffic impact, drainage or other adequate facilities studies evaluating the impacts of the development or similar developments on the City's water, wastewater, roadway or drainage facilities systems.

C. Action on Petition. The City Council shall consider the petition and determine whether the application of the provision requiring dedication of an interest in land for rights-of-way or construction of capital improvements in order to provide adequate water, wastewater, roadway or drainage facilities to serve the proposed subdivision, or the imposition of a condition related thereto, is roughly proportional to the nature and extent of the impacts created by the proposed development on such public facilities systems, and reasonably benefits the development. In making such determination, the City Council shall consider the evidence submitted by the applicant or property owner and the staff's recommendation. If the petition also alleges that the proposed dedication or construction requirements constitute a deprivation of the economically viable use of the land or of a vested property right, the Council also shall resolve such issues. Following such determinations, the Council may take any of the following actions:

1. Deny the petition for relief, and impose the requirement or condition; or
2. Deny the petition for relief, upon finding that the proposed dedication or construction requirements are inadequate to offset the impacts of the development on community water, wastewater, roadway or drainage facilities, and either deny the subdivision application or require that additional dedications of rights-of-way for or improvements to such facilities systems be made as a condition of approval of the application; or
3. Grant the petition for relief, and waive in whole or in part any dedication or construction requirement that is not roughly proportional; or
4. Grant the petition for relief, and direct that the City participate in the costs of acquiring right-of-way for or constructing such facility pursuant to standard participation policies.

### 3.10 Amended Plats, Replats, Resubdivision and Vacation of Plats

#### 3.10.1 Replats Without Vacation

Replat of a subdivision, or a portion thereof, may be recorded and shall be deemed controlling over the preceding plat of the subdivision without vacation of that plat when:

- A. The replat has been signed and acknowledged by only the owners of the property being replatted; and
- B. The replat does not attempt to amend or remove any covenants, easements or restrictions contained in the preceding plat; and
- C. The replat, following public hearing, is approved in accordance with the procedures and standards applicable to the preceding plat under this Ordinance.

### 3.10.2 Filing Time

Filing time for replats shall be governed by § 3.2.

### 3.10.3 Special Replat Requirements

- A. Circumstances. The following additional requirements for approval shall apply, in any replatting of a subdivision or development, without vacating the preceding plat, if any of the proposed area to be replatted was, within the immediate preceding five (5) years, limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot, or if any lot in the immediate previous subdivision was limited by deed restrictions to residential use for not more than two (2) residential units per lot:
- B. Notice. Notice of public hearings shall be given in advance, in the following manner:
  1. Publication before the 15th day before the date of the public hearing in the official newspaper of the City of Pelican Bay.
  2. Written notice of such public hearing, together with a copy of protest provisions, forwarded by the Council to owners of lots (as the ownerships appear on the last approved ad valorem tax roll of the City) that are in the original subdivision and that are within 200 feet of the lots to be replatted before the 15th day before the date of public hearing. Such notice may be served by depositing the same, properly addressed and postage prepaid, in a postal depository within the City or at the post office in Azle.
- C. Protest. Where the proposed replat requires an exception, upon written petition signed by the owners of at least 20% 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, and which petition is filed prior to the close of the public hearing, approval of the replat shall require the affirmative vote of at least three-fourths (3/4) of the members of the Council present at the hearing. In



computing percentages of ownership, each lot in such subdivision shall be considered equal to all other lots, regardless of size or number of owners, and the owners of each lot shall be entitled to cast only one (1) vote per lot. In computing the percentage of land area under this section, the area of streets and alleys shall be included.

- D. Provided, however, compliance with subsection C shall not be required for approval of a replatting or resubdividing of a portion of a prior plat, if all of the proposed area sought to be replatted or resubdivided was designated or reserved for usage other than for single- or duplex-family residential usage, by notation on the last legally recorded plat or in the legally recorded restriction applicable to such plat.

#### 3.10.4 Amending Plats

- A. The Council may, upon petition of the property owner or developer, approve and issue an amending plat which is signed by the applicants only unless otherwise required to the contrary, and which is for one or more of the purposes set forth in this section, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:
1. To correct an error in any course or distance shown on the preceding plat;
  2. To add any course or distance that was omitted on the preceding plat;
  3. To correct an error in the description of the real property shown on the preceding plat;
  4. To indicate monuments set after death, disability, or retirement from practice of the surveyor charged with responsibilities for setting monuments;
  5. To show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the preceding plat;
  6. To correct any other type of scrivener or clerical error or omission as previously approved by the City Planning and Zoning Commission or Council; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;
  7. To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

8. To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement;
  9. To relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the amending plat, provided that such amendment does not:
    - a. Attempt to remove recorded covenants or restrictions; and
    - b. Increase the number of lots.
  10. To replat one or more lots fronting on an existing street where the owner or owners of all such lots join in the application for the amending plat, provided that such amendment does not:
    - a. Attempt to remove recorded covenants or restrictions;
    - b. Increase the number of lots; and
    - c. Create or require the creation of a new street or make necessary the extension of municipal facilities.
- B. Procedures. Amending plats may be approved by the Council by a majority vote at a regularly or specially scheduled public meeting without notice, public hearing or approval of other lot owners.

### 3.10.5 Plat Vacation

- A. By Property Owner. The property owner of the tract covered by a plat may vacate, upon the approval of the Council, 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. By All Lot Owners. If lots in the plat 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. Criteria. The Council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare. As a condition of vacation of the plat, the Council may direct the petitioners to prepare a revised final plat in accordance with these regulations.
- D. Effect of Action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the Council's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or

charges paid to the City nor to the return of any property or consideration dedicated or delivered to the City except as may have previously been agreed to by the Council.

E. Government Initiated Plat Vacation.

1. General Conditions. The Council, on its motion, may vacate the plat of an approved subdivision or development when:
  - a. No lots within the approved final plat have been sold within five (5) years from the date that the plat was signed by the Chairman of the Mayor;
  - b. The property owner has breached a public improvement agreement and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor;
  - c. The plat has been of record for more than five (5) years and the Council determines that the further sale of lots within the subdivision or development presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.
2. Procedure. Upon any motion of the Council to vacate the plat of any previously approved subdivision or development, in whole or in part, the Council shall publish notice in the City's official newspaper and provide personal notice to all property owners within the subdivision or development and shall also provide notice to the Council. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision or development plat. The Council shall approve the vacation only if the criteria in Section 3.12.5(C) are satisfied.
3. Record of Notice. If the Council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the County Clerk's Office. If the Council adopts a resolution vacating a plat in part, it shall cause a revised final plat to be recorded, which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

3.11 Engineering Inspection Fee

- A. A construction fee equal to three percent (3.0%) of the cost of the construction (as determined by the City's consulting engineer), including water, sewer, paving, and drainage facilities, shall be paid to the City prior to the construction of any facilities. Subdivider shall submit to the City's consulting engineer an estimate of construction costs. The City's consulting engineer shall either approve or disapprove the estimate and send a copy of said approval or disapproval to subdivider and City. If the estimate is disapproved, the City's

consulting engineer shall consult with subdivider and attempt to negotiate an acceptable estimate. If such negotiations are unsuccessful, the subdivider may appeal to the City Council to resolve the dispute. Construction shall not begin until the City's consulting engineer has approved the estimate or in the alternative the City Council has approved the estimate.

- B. The City shall hold twenty-five percent (25%) of the subdividers inspection fee in an escrow account.
- C. The subdivider shall submit to City documentation showing actual cost of construction when construction is completed. If actual cost is less than the original estimate, the City shall refund the appropriate amount. If the actual construction cost is greater than the original estimate, subdivider shall pay to the City the appropriate amount, based on three (3.0%) of actual costs.

**SECTION 4 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS**

**4.1 Required Improvements and Public Improvement Agreement**

**A. Completion of Improvements.**

1. Except as provided below, before the issuance of a building permit, all applicants shall be required to complete, to the satisfaction of the City Engineer, all street, sanitary, and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in these regulations. The required improvements shall be those specified and approved by the Council in the final plat. Where required by the provisions of this ordinance, said final plat shall 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.
2. As a condition of a final plat, the Council may require the property owner to deposit in escrow a sufficient deed describing by metes and bounds street rights-of-way and necessary easements required by these regulations, conveying such rights-of-way and easements to the City, pending acceptance of improvements by the City and recordation of the final plat. In the event the property owner is unable to complete said improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the City may compel the delivery of the deed in order to complete the improvements as required.

**B. Public Improvement Agreement and Guarantee of Completion of Public Improvements**

1. Public Improvement Agreement. The Council, upon recommendation of the Planning and Zoning Administrator, may waive the requirement of Section 4.1(A) and may permit the property owner to enter into a public improvement agreement by which the property owner covenants to complete all required public improvements no later than two (2) years following the date upon which the final plat is signed. The Council may also require the property owner to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a public improvement agreement for completion of the remainder of the required improvements during such two-year period. The owner shall covenant to maintain the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of 100% of the costs of the improvements for such period as required in Section 4.4. The Public Improvement Agreement shall contain such other terms and conditions as are agreed to by the property owner and

City. The agreements relative to any subdivision or development shall not be considered as complete until three (3) sets of record drawings, one (1) set of mylars, and an electronic (CAD) copy for such drawings for all streets and utilities including street lighting in the subdivision, certified by the developer's engineer, are filed with the Planning and Zoning Administrator. Nothing in this section shall nullify the City's obligation to participate in the construction of oversize facilities in accordance with Section 6.

2. Covenants to Run with the Land. The Public Improvement Agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs and assignees of the property owner. The Public Improvement Agreement shall be recorded in the Land Records of the appropriate County. All existing lien holders shall be required to subordinate their liens to the covenants contained in the Public Improvement Agreement. However, the City shall deliver a release to bona fide third party purchasers of individual lots once all required public improvements have been completed to the City's satisfaction.
3. Public Improvement Agreement and Security to Include Lot Improvements For residential subdivisions, the public improvement agreement shall include security sufficient to guarantee completion of all lot improvement requirements including, but not limited to, soil preservation, removal of debris and waste, and all other lot improvements required for the subdivision. Whether or not a building permit or certificate of occupancy has been issued, the City may enforce the provisions of the public improvement agreement where the provisions of this section or any other applicable law, ordinance, or regulation have not been met.
4. Security. Whenever the City permits a property owner to enter into a public improvement agreement, it shall require the owner to provide sufficient security, to ensure completion of the required public improvements. The security shall be in the form of one of the following:
  - a. a cash escrow, or
  - b. a letter of credit drawn upon a state or national bank. Said letter of credit shall be 1) irrevocable, 2) be of a term sufficient to cover the completion, maintenance and warranty periods, but not 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, or
  - c. a first and prior lien on the property.

Said securities shall be issued in the amount of 110% of the funds estimated by the City Engineer to be necessary to pay for all promises and conditions contained in the Public Improvement Agreement. 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 Planning and Zoning Administrator and the City Attorney.

5. As portions of the public improvements are completed in accordance with the Standard Specifications for Public Works Construction, as published by the North Central Texas Council of Governments (NCTCOG), and the approved construction plans, the owner may make application to the Planning and Zoning Administrator to reduce the amount of the original letter of credit or cash escrow. If the Administrator, with the concurrence of the City Engineer, is satisfied that such portion of the improvements has been completed in accordance with City standards, he may cause the amount of the letter of credit or cash escrow to be reduced by such amount that s/he deems appropriate, so that the remaining amount of the letter of credit or cash escrow adequately insures the completion of the remaining public improvements.
- C. Temporary Improvements. The property owner shall build and pay for all costs of temporary improvements required by the Council and shall maintain those temporary improvements for the period specified by the Council. Prior to construction of any temporary facility or improvement, the owner shall file with the City a separate public improvement agreement and escrow, or, where authorized, letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained, and removed.
  - D. Governmental Units. Governmental units to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Ordinance.
  - E. Failure to Complete Improvements. For plats for which no public 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 a public 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 agreement is declared to be in default;
  2. Suspend issuance of a building permit 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 the public improvements itself or through a third party;
  4. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision or development 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 on the tract;
  5. Exercise any other rights available under the law.
- F. Acceptance of Dedication Offers. Acceptance of formal offers of dedication of street, public areas, easements, and parks shall be by authorization and written notification to the City Engineer. The approval by the Council of a plat, whether preliminary or final, shall not of itself be deemed to constitute or imply the acceptance by the City of any street, easement, or park shown on the plat. The Council may require the plat to be endorsed with appropriate notes to this effect.

#### 4.2 Construction Procedures

- A. Construction of all public works projects shall be in accordance with the most recent version of Standard Specifications for Public Works Construction issued by the North Central Texas Council of Governments, as may be amended in the City of Pelican Bay Addendum to the NCTCOG Standard Specifications for Public Works Construction.
- B. Preconstruction Conference. The City Engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.
- C. Conditions Prior to Authorization. Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:
  1. The final plat shall be completed to the requirements of the Council at the time of approval.
  2. All required plans and contract documents shall be completed and filed with the Planning and Zoning Administrator.



3. All necessary off-site easements or dedications required for City maintained facilities, not shown on the final plat must be conveyed solely to the City, with proper signatures affixed. The original of the documents, and filing fees as determined by the Planning and Zoning Administrator, shall be returned to the Planning and Zoning Administrator prior to approval and release of the engineering plans.
4. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. 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 Planning and Zoning Administrator or City Engineer.
6. All applicable fees must be paid to the City.

#### 4.3 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, Standard Specifications and Standard Details of the City of Pelican Bay. 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. All revisions shall be approved by the City Engineer. If the City Engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the City's construction standards and specifications, the property 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 has certified to the City Engineer, through submission of a detailed "as-built" survey plat of the property, the location, dimensions, materials, and other information required by the Council or City Engineer. The "as-builts" 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. Each as-built sheet shall show all changes made in the plans during construction and on each sheet there will be an as-built stamp bearing the signature of the engineer and date.

The Engineer shall provide to the City one reproducible drawing of each of the utility plan sheets containing the as-built information. When such requirements have been

met the City Engineer, on behalf of the City, shall thereafter accept the public improvements for dedication in accordance with the established procedure. 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. The City Engineer may, at his or her discretion, accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all of the required public improvements. 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.

“As-built” drawings shall be submitted in the following formats:

- a. Mylar reproducible drawings - 1 set
- b. Full size prints - 3 sets
- c. Electronic drawings in AutoCAD, or other format acceptable to the City Engineer - 1 set

#### 4.4 Maintenance of Improvements

- A. The owner shall maintain all required public improvements during construction of the development including all drainage and erosion control facilities. All development and construction activities shall be conducted in a manner to prevent damage to adjacent property. The owner shall construct and maintain all facilities required damage to the adjacent property throughout the construction of the project and for two years after final acceptance of the project but the City.
- B. The owner shall covenant to maintain the required public improvements for a period of two (2) years following acceptance by the City of all required public improvements and shall provide a maintenance bond in the amount of 100% of the costs of the improvements for such period. All improvements located within an easement or right-of-way shall be bonded.

#### 4.5 Issuance of Building Permits and Certificates of Occupancy

- A. 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 and all public improvements as required by the Council have been completed, as attested to by the City Engineer through the issuance of a Certificate of Completion, except as permitted below.
  1. Building permits may be issued for non-residential and multi family development provided that a final plat is approved by the City and construction plans have been released by the City Engineer. Building construction will not be allowed to surpass the construction of fire protection improvements.

2. The City Engineer may authorize the Planning and Zoning Administrator to issue residential building permits for a portion of a subdivision, provided that all public improvements have been completed and accepted for that portion of the development, including but not limited to those required for fire and emergency protection, and a development agreement has been approved by the City for completion of all remaining public improvements.
- B. No certificate of occupancy shall be issued for a building or the use of property unless all public improvements have been completed for the phase of the subdivision or development in which the property is located and accepted and a final plat approved by the City has been recorded.

## SECTION 5 REQUIREMENTS FOR PUBLIC IMPROVEMENT AND DESIGN

### 5.1 General Requirements

- A. Plats Straddling Municipal Boundaries. Whenever access to the subdivision or development is required across land in another municipality, the Council may request assurance from that municipality's Attorney that access is legally established, and from its Engineer that the access road is adequately improved, or that a bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal, county or school district boundary lines.
- B. Character of the Land. Land that the Council finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or development and/or its surrounding areas, shall not be subdivided or platted unless adequate methods are formulated by the owner and approved by the Council, upon recommendation of the City Engineer, to solve the problems created by the unsuitable land conditions.
- C. Adequate Public Facilities Policy. The land proposed for subdivision or development must be served adequately by essential public facilities and services. Land shall not be approved for platting unless and until adequate public facilities exist or provision has been made for water facilities, wastewater facilities, drainage facilities and transportation facilities which are necessary to serve the development proposed, whether or not such facilities are to be located within the property being platted or offsite. This policy may be defined further and supplemented by other ordinances adopted by the City.
1. Conformance to Plans. Proposed public improvements shall conform to and be properly related to the Transportation and Public Facilities Element of the City's adopted Comprehensive Plan, other adopted master plans for public facilities and services, and applicable capital improvements plans.
  2. Water. All platted lots must be connected to a public water system, which is capable of providing water for health and emergency purposes, including adequate fire protection.
  3. Wastewater. All platted lots must be served by an approved means of waste water collection and treatment. The City may require the phasing of development and/or improvements in order to maintain adequate wastewater capacity. Additional standards and requirements are defined in Section 5.8.

4. Streets. Proposed streets shall provide a safe, convenient and functional system for vehicular and pedestrian circulation and shall be properly related to the Plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each proposed subdivision or development. Additional standards and requirements are defined in Section 5.9.
  5. Drainage. Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements in order to mitigate the impacts of the proposed development. Additional standards and requirements are defined in Section 5.10.
  6. Other Facilities. Adequate sites and convenient access for schools, parks, playgrounds, and other community services indicated in the City's Comprehensive Plan shall be related to the character and uses of the surrounding properties in accordance with the intent, policies and provisions of this ordinance.
  7. Phasing. The City may require the phasing of development or improvements in order to maintain current levels of service for existing public services and facilities or for other reasons based upon maintaining the health, safety and general welfare of the City's inhabitants. The Council shall determine whether the proposed public facilities and services are adequate pursuant to standards herein established.
- D. Subdivision or Development Name. The proposed name of the subdivision or development shall not duplicate, or too closely approximate phonetically, the name of any other subdivision or development in the area covered by these regulations and shall, where possible correspond to named subdivisions or developments in the immediate vicinity. The Council shall have final authority to approve the name of the subdivision or development based upon the recommendation of the Administrator or City Engineer.
- E. Survey
1. The Surveyor, responsible for the plat, shall place permanent monuments at each corner of the boundary survey of the subdivision or development. These monuments shall be a four (4) inch diameter concrete post three (3) feet long; a steel rod five-eighths (5/8") inch in diameter imbedded twelve (12") inches in the monument, flush with the top, placed in the exact intersecting points of the corner. The monuments shall be set at ground level or at such an elevation that they will not be disturbed during the construction,

and the top of the monument shall not be more than twelve (12) inches below finished ground level.

2. GPS monuments shall be constructed of a four (4) inch diameter reinforced concrete monument at least 6 feet deep set flush with the ground. A brass or aluminum disc shall be set in the top of the monument and shall have the monument number, elevation and registration number of the surveyor stamped in the disc. The surveyor shall determine the Texas State Plane Coordinates and elevation of the monument and file a survey report with the City showing this information.
3. Markers shall be set at all block corners, street and alley curve points and angle points along the boundaries and also within the subdivision. These markers shall be a five eighths (5/8) inch reinforcing bar, eighteen (18) inches long. The markers shall be set at ground level or at such an elevation that they will not be disturbed during the construction, and the top of the marker shall not be more than twelve (12) inches below finished ground level.
4. Where no bench mark is established or can be found within one thousand (1000) feet of the boundary of the subdivision, such bench marker shall be established to sea level datum. Said bench mark shall be established; shall be readily accessible and identifiable on the ground; and set as a separate monument of the same concrete construction as described for GPS monuments with the elevation engraved on a bronze plate embedded flush in the top surface of the monument. Large subdivisions may require more than one bench mark; in any event, such marks shall be no more than two thousand six-hundred forty (2,640) feet apart or within two thousand six-hundred forty (2,640) feet of a previously established bench mark. All such bench marks shall be recorded on the final plat. Where GPS monuments meet this requirement, no additional benchmarks are required.
5. All lot corners shall be located and marked with one half (1/2) inch reinforcing bar, eighteen (18) inches in length, and shall be placed flush with the ground or counter sunk, if necessary, in order to avoid being disturbed.
6. Iron rods, one-half (1/2") inch in diameter and eighteen (18) inches long, shall be placed on all boundary corners, block corners, curve points, and angle points in water line, sanitary sewer line and drainage facility easements as well as floodway boundaries.

F. Facility Design

1. Streets, thoroughfares, drainage facilities, water lines, sanitary sewer lines and other such facilities which are to be owned, operated and/or maintained

by the City of Pelican Bay shall be designed in accordance with the guidelines of the City of Pelican Bay Design Standards.

2. The Design Standards are intended to be minimum requirements. The project developer shall be responsible for determining if more stringent requirements are necessary for a particular development.
  3. In cases where the Design standards do not cover all aspects of a development, the developer will be expected to provide designs and facilities in accordance with good engineering practice and to cause to be constructed facilities utilizing first class workmanship and materials.
- G. Floodplain Regulation. All subdivision or development activity as regulated by this Ordinance shall be subject to the Flood Damage Prevention Regulations, of the City of Pelican Bay Code of Ordinances.

## 5.2 Lot Design and Improvement Standards

- A. Lot Arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Regulations, Building Code and other applicable ordinances, laws and regulations. Driveway access shall be provided to buildings on the lots from an approved street, alley or public way.
- B. Lot Dimensions. Lot dimensions shall comply with the minimum standards of the Zoning Regulations as determined in each district or the Planned Development District. All lots on building sites shall conform to the minimum standards for the area, width and depth prescribed by the Pelican Bay Zoning Regulations for the district or districts in which the subdivision or development is located. In general, lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking, landscaping, and loading facilities required for the type of use and development contemplated, as established in the Zoning Regulations. Lot dimensions shall be measured at the property line, except that for residential lots located on cul-de-sac circles or at the corners of a loop street, lot width shall be measured at the front building line and one side lot line may be less than the minimum required by the zoning district, provided the lot meets width and area requirements.

In general, the depth of a residential lot should not exceed four times the width of the lot, unless topographic or environmental characteristics create a condition best addressed by an excessive lot depth.

- C. Double Frontage Residential Lots. Double frontage and reversed frontage lots shall be avoided except where necessary to separate residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. The City may impose additional buffering and/or screening requirements for these lots.
- D. Soil Preservation and Final Grading. Top soil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots, parkways and medians. Permanent erosion control measures, shall be provided throughout the development prior to final acceptance of the improvements. Soil preservation shall consist of the following:
1. All street rights-of-way, regardless of slope, all finished grade slopes that are steeper than 1 foot vertical to 6 feet horizontal (6:1), and the flow lines of all drainage ditches and swales shall be completely covered with erosion control matting as specified in the North Texas Council of Governments Construction (N.C.T.C.O.G) BMP Manual.
  2. Grass shall be established on the slopes of all drainage channels that are steeper than 6:1. Grass shall meet the requirements of the Standard Specifications of the Texas Department of Transportation.
  3. Other erosion protection methods as described in the N.C.T.C.O.G. BMP Manual shall be used to control all erosion in the development. All erosion protection methods shall be approved by the City Engineer.
- E. Minimum Lot and Floor Elevations. Minimum lot and floor elevations shall be established as follows:
1. Lots abutting a natural or excavated channel shall meet the specific standards for flood hazard reduction established in of the City of Pelican Bay Code of Ordinances.
  2. Where lots do not abut a natural or excavated channel, minimum floor elevations shall be a minimum of one (1) foot above the street curb or edge of alley, whichever is higher, unless otherwise approved by the City's Engineering Division. A lot grading plan is required. With permission of the City Engineer, the minimum finished floor elevation may be lower than the street curb, roadway or alley provided the floor elevation is at least one-foot above the rim elevation of the downstream manhole of the sanitary sewer system that serves the lot.
  3. Where lots are served by on-site sewerage facilities that rely on the gravity flow of wastewater, the minimum finished floor elevations shall be not less than 4.5 feet above the highest elevation of the ground at the drainfield, absorption bed or transpiration bed unless otherwise permitted by the City Engineer.



- F. **Debris and Waste.** No cut trees, timber, debris, large rocks or stones, junk, rubbish or other waste materials of any kind shall be buried in any land, or left or deposited on any lot or street at the time of final acceptance by the City Engineer, and removal of those items and materials shall be required prior to such acceptance. No items and materials as herein described shall be left or deposited in any area of the subdivision or development at the time of expiration of any public improvement agreement or acceptance of dedication of public improvements, whichever is sooner. However, dirt or topsoil may be stockpiled on a property at a location approved by the City Engineer.

### 5.3 Non-residential Plats

- A. **Design Principles.** In addition to these regulations, which are appropriate to all platting, the applicant shall demonstrate to the satisfaction of the Council that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles shall be observed:
1. Proposed non-residential parcels shall be suitable in area and dimensions to the types of non-residential development anticipated.
  2. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon, but in no case shall be less than the design standards embodied in the Master Thoroughfare Plan.
  3. Residential areas shall be protected from potential nuisance from a proposed non-residential plat by means of screening or other physical separation as further described in the Pelican Bay Zoning Regulations.
  4. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or future residential areas.
- B. **Frontage and Access Standards.** All non-residential lots established following the effective date of this ordinance shall meet the following frontage and access criteria:
1. **Frontage -** All non-residential lots abutting an arterial or higher thoroughfare shall have a minimum 200 linear feet. All non-residential lots abutting a collector or lower thoroughfare shall have a minimum of 150 feet of frontage.
  2. **Curb Cuts -** All non-residential lots shall have access to the public street system by a driveway onto a public street or, in certain instances subject to review by the City Engineer, by a driveway onto a dedicated mutual access easement. Curb cuts shall be located in accordance with the Master

Thoroughfare Plan, Engineering Design Manual and other applicable ordinances. Access drives shall be a minimum fifty (50) feet in distance from any street intersection and a minimum one hundred (100) feet from any intersection which is signalized or which in the opinion of the City Engineer will require future signalization, unless approved by the City Engineer.

3. Median Openings - Median openings shall be located in accordance with the Master Thoroughfare Plan and other applicable ordinances. Generally, median openings shall not be spaced closer than 350 feet centers nor closer than 250 feet from an intersection. If direct access to a median opening is not available, lots shall have indirect access through a mutual access easement between adjacent properties. Such mutual access shall be indicated on the plat whenever possible.

#### 5.4 Sidewalks, Bikeways, Alleys and Landscaping

##### 5.4.1 Sidewalks and Bikeways

- A. Sidewalks. Sidewalks are required along all streets.
  1. Sidewalks shall be constructed of 2,000 psi concrete having a width of not less than four (4') feet and a minimum thickness of four (4") inches.
  2. The sidewalk shall be constructed prior to the issuance of a Certificate of Occupancy.
  3. In residential districts the sidewalks shall be (4') feet wide located (1') foot off of the property line or (6') feet wide located adjacent to the curb.
  4. In All other districts the sidewalks shall be a minimum of (6') feet wide.
- B. Pedestrian Accesses. The Council may require, in order to facilitate pedestrian access from the streets to schools, parks, playgrounds, or other nearby streets, perpetual unobstructed easements at least fifteen (15) feet in width. Easements shall be indicated on the plat.
- C. Bikeways. Hike and bike sidewalks (bikeways) shall be constructed along streets designated for hike and bike trails. Bikeways shall be constructed in the manner and locations specified in the Engineering Design Manual. Bikeways shall be built by the owner at the time of site development, or the owner may petition for the City to construct such facilities, subject to escrow policies stated in Section 6 of these regulations.
- D. Alleys

1. Commercial and industrial areas: Alleys shall be provided in commercial and industrial districts where other provisions are not made for service access; off street loading, parking, and fire fighting.
  2. Residential areas: Alleys may be provided in residential areas.
  3. Construction: Alleys shall be constructed according to the standards for local streets in residential estates subdivision except in commercial and industrial areas where alleys shall be constructed according to the standards for their service function.
  4. Intersections: Alleys shall be perpendicular to streets at intersections. Minimum radius of pavement of street-alley intersections shall be eight (8) feet.
  5. Dead end alleys: Dead end alleys shall be provided with cul-de-sacs with a minimum paved surface radius of thirty (30') feet.
- E. Landscaping. Landscaping, buffering and screening improvements shall be required along certain roadways in conformance with standards established in Section 14 of the Zoning Regulations, or as provided in Planned Development Districts established pursuant to the City's Zoning Ordinance. (See also Section 5.16 below, Preservation of trees and landscaping.)

#### 5.5 Fire Lanes and Fire Department Access

- A. Access to Fire Hydrants and other Fire Suppression Equipment. All fire hydrants shall be accessible by the City's fire trucks and equipment from a dedicated public street or a fire lane. The distance from fire hydrants to the edge of pavement for public streets shall not exceed five feet unless otherwise permitted by the City Engineer. The distance from the edge of the fire lane to fire hydrants and standpipe and fire department connections shall not exceed five feet unless otherwise permitted by the Fire Chief.
- B. Fire Lane Design Requirements. The width of all fire lanes shall not be less than twenty-four feet wide. Fire lanes shall be paved with a minimum of six inches of reinforced concrete. The minimum inside radius of a curve or turn shall not be less than 30 feet. A standard SU-20 design vehicle shall be able to travel from a public street along all fire lanes, be able to reach within five feet of all fire hydrants, and exit back onto a public street without backing up.
- C. Dead End Fire Lanes. Dead end fire lanes may be used only to obtain the required access to buildings, not to fire hydrants or fire department connections and the maximum length of a dead end fire lane shall not exceed 150 feet. All dead-end fire lanes shall include a turn around and the end of the fire lane for a SU-20 vehicle with vehicle backing allowed.

### 5.6. Block Design Standards

- A. Block Length. Blocks shall not be more than 900 feet in length.
- B. Block Width. Blocks shall be wide enough to allow two (2) tiers of lots with a block width of no less than 200 feet, except when prevented by the size of the property or the need to back up to a major thoroughfare.
- C. Crosswalks. Crosswalk easement of fifteen feet (15') in width across blocks exceeding 800 feet in length shall be dedicated where deemed necessary by the City Council. In blocks 800 feet or more in length, there shall be provided near the center of the block a pedestrian walk easement. The walk is to be paved to a width of not less than five feet (5'). Pedestrian walks of not less than four feet (4') shall be provided around the perimeter of all blocks. The sidewalk shall be constructed before a utility service permit shall be issued.

### 5.7 Water Facilities Standards

- A. Adequate Water Facilities. Water systems serving the subdivision or development shall connect with the City's water supply and distribution system. Water facilities shall be installed to adequately serve each lot and shall be sized to conform to the City's Water Distribution Master Plan and other requirements of the City. The City may require owners to provide a water study, including adequate engineering data to support water demand projections, before final plans will be approved.
- B. Design and Construction Requirements. Design of water systems shall be in accordance with the latest design criteria set forth by TCEQ. No water system will be constructed unless all plans have been reviewed and approved by the City to assure compliance with these requirements. All design and construction will be done under the inspection of the City and in accordance with established City policies and practices.
  - 1. Water services for each lot shall be a minimum of ¾" type K copper. Each service shall be provided with a brass meter valve contained inside a meter box. Service to each lot shall have a maximum cover of eighteen (18") inches.
  - 2. All valves shall be marked with a V and water taps shall be marked with a W in the curbing of the street. The marks shall not be more than two feet off in either direction. Taps are to run straight from the curb to the end of the service and shall be of uniform length.
  - 3. Valves shall be located at maximum intervals of 600' feet on 12" and smaller lines. Valves shall be furnished with extensions such that the working nut is a maximum of 48" below grade.

4. Water lines shall be installed with thirty (30") inches minimum cover over the top of the pipe.
  5. Water lines shall be disinfected in accordance with TCEQ Standards. The City will allow two flushing of the water line for bacteriological testing, after that a meter will be placed on the fire hydrants and the city will bill for the water.
  6. All PVC pipe shall have bedding of 1 ½ times the pipe diameter with a minimum of four (4) inches of the bedding material shall be sand or chat and shall be at least twelve (12") inches over top of pipe.
  7. At no time are any changes to be made to the elevation, placement or configuration of any water lines without approval by the City.
  8. Before the water lines are accepted by the City, an inspection will be done, with the contractor on site of all valves to ensure the correct elevation and operation of all items.
  9. Water services shall not be provided until all requirements are met.
  10. Tape is to be placed on top of the sand or chat before any backfill material is replaced to show a line below.
- C. Extension Policy. The developer shall extend all water mains and appurtenances necessary to connect the development with the City's water supply and distribution system and shall extend such mains and appurtenances to all property lines of the subdivision or development to allow connection to these facilities by adjoining property owners in accordance with the City's approved plans. Authority to extend water mains to serve newly subdivided or platted land shall be granted by the City only upon a determination by the Administrator that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of occupancy permits for structures developed on such land.
- D. Minimum Size Mains. Water mains shall be located and sized in accordance with the TCEQ. However, the minimum water main shall be eight (8) inches nominal internal diameter and shall be UL and NSF certified.
- E. Fire Protection. Water service must be sufficient to meet fire flow requirements of the proposed development for domestic and industrial purposes, except where a suitable alternative means of fire protection is approved by the City.
- F. Fire Hydrants - Number and Locations. A sufficient number of fire hydrants shall be installed to provide hose stream protection for every point on the exterior wall of the

building. There shall be sufficient hydrants to concentrate the required fire flow, as recommended by the publication "Fire Suppression Rating Schedule" published by the Insurance Service Office, around any building with an adequate flow available from the water system to meet this required flow. In addition, the following guidelines shall be met or exceeded:

1. Single Family and Duplex Residential. As the property is developed, fire hydrants shall be located at all intersecting streets and at intermediate locations between intersections at a maximum spacing of 500 feet between fire hydrants as measured along the route that fire hose is laid by a fire vehicle.
2. Multi-Family Residential. As the property is developed, fire hydrants shall be located at all intersecting streets and at intermediate locations between intersections at a maximum spacing of 300 feet as measured along the length of the center line of the roadway, and the front of any structure at grade and shall be no further than 400 feet from a minimum of two (2) fire hydrants as measured along the route that a fire hose is laid by a fire vehicle.
3. Other Districts. As the property is developed, fire hydrants shall be located at all intersecting streets and at intermediate locations between intersections at a maximum spacing of 300 feet as measured along the length of the center line of the roadway, and the front of any structure at grade and shall be no further than 400 feet from a minimum of two (2) fire hydrants as measured along the route that a fire hose is laid by a fire vehicle.
4. Protected Properties. Fire hydrants required to provide a supplemental water supply for automatic fire protection systems shall be within 100 feet of the fire department connection for such system.
5. Fire hydrants shall be installed along all fire lane areas as follows:
  - a. Non-Residential Property or Use
    - a. Within 150 feet of the main entrance.
    - b. Within 100 feet of any fire department connection.
    - c. At a maximum intermediate spacing of 300 feet as measured along the length of the fire lane.
6. Generally, no fire hydrant shall be located closer than fifty (50) feet to a non-residential building or structure unless approved by the City Engineer.
7. In instances where access between the fire hydrant and the building which it is intended to serve may be blocked, extra fire hydrants shall be provided to

improve the fire protection. Railroads, expressways, major thoroughfares and other man-made or natural obstacles are considered as barriers.

8. All portions of all buildings in single-family residential districts shall be located within a three hundred-foot hose lay from fire lane or public roadway having a fire hydrant spacing meeting the requirements of these regulations.
9. All portions of all buildings in all other districts shall be located within a three hundred-foot hose lay from fire lane or public roadway having a fire hydrant spacing meeting the requirements of these regulations.
10. The hose lay shall be measured as a fire hose would be laid from the fire lane or roadway along aisles that are at least 24-feet wide and that are not obstructed by fences, buildings, stored materials, railroads or other obstructions.

#### 5.8 Sanitary Sewer Facilities Standards

- A. Adequate Sewage Facilities. Sanitary sewer facilities serving the subdivision, development or addition shall connect to the City's sanitary sewer system or other public sewerage treatment facility, except as provided in subsection D. Sewage systems shall be installed to adequately serve each lot and shall be sized accordingly. All additions to the sanitary sewage system shall conform to the City's "Master Sewer Plan" and other requirements of the City. The City may require a sanitary sewer study, including adequate engineering data, to support projected sewer flows before final plan approval. The proposed wastewater discharge of a proposed development shall not exceed the capacity of the wastewater system based upon required studies.
- B. Design and Construction Requirements. Design of sanitary sewers shall be in accordance with the City of Pelican Bay's Design Standards. No sewer system will be constructed unless all plans have been reviewed and approved by the City to assure compliance with these requirements. All design and construction will be done under the inspection of the City and in accordance with established City policies and practices.
- C. Extension Policy. The developer shall extend all sanitary sewer mains and appurtenances necessary to connect the development with the City's wastewater system. Sanitary sewer mains shall be extended to all property lines of the subdivision or development to allow connection to these facilities by adjacent property owners in accordance with approved plans. Authority to extend wastewater mains to serve newly subdivided or platted land shall be granted by the City only upon a determination by the Administrator that all facilities necessary to adequately serve the development are in place or will be in place prior to the issuance of occupancy permits for structures developed on such land.

D. On-Site Treatment.

1. The owner and/or developer of the subdivision or development shall construct the necessary water facilities to serve the subdivision. If it is practical to construct sanitary sewer facilities and connect to a sanitary sewer facility with approved treatment facilities, then the owner and/or developer shall construct the necessary sanitary sewer facilities to properly serve the subdivision.
2. No permit shall be issued by Tarrant County for the installation of a septic tank(s) if adequate sewer service is or will be feasibly available within two hundred (200') feet of the building to be served.
3. If the City deems that it is not practical to connect to a sanitary sewer facility that will treat the sewage for the subdivision, then the area may be served by an approved on-site sewerage facility for the individual lots as licensed by Tarrant County and approved by regulatory authorities having jurisdiction over such facilities. The City may require a study to make such determination.
4. All septic tank systems must comply with "Construction Standards for Private Sewage Facilities", published by the Texas Commission on Environmental Quality (TCEQ).
5. If a sanitary sewage treatment system is to be installed, the plans for such system shall be approved by the TCEQ and a permit secured from the TCEQ prior to approval of the final plat by the City Council.

E. Design Standards.

1. All pipe joints shall be of the rubber ring gasket type conforming to the applicable ASTM standards.
2. The sewage collection system shall be designed to handle the anticipated flow of sewage from the subdivision including development to future sections of the same subdivision. Recognized engineering design criteria in accordance with the requirements of the TCEQ shall be used to design the system.
3. All sewer lines shall be on such a grade as to provide a minimum velocity of two (2') feet per second with using an "n" value of 0.010 in the Manning Formula.
4. At no time are any changes to be made to the elevation, placement or configuration of any sewer lines without approval by the City.
5. The minimum size line, excluding house service lines, shall be six (6") inches in diameter.



6. Manholes shall not be spaced more than five hundred (500') feet apart and shall be provided at all changes in grade, direction and pipe size.
7. All manholes shall be marked with an M, and sewer taps shall be marked with a S in the curbing of the street. The marks shall not be more than two feet off in either direction. Taps are to run straight from the curb to the end of the service and shall be of uniform length
8. All PVC pipe shall have bedding of 1 ½ times the pipe diameter with a minimum of four (4) inch of the bedding material shall be sand or chat and shall be at least twelve (12") inches over top of pipe.
9. Tape is to be placed on top of the sand or chat before any backfill material is replaced to show a line below.
10. The City of Pelican Bay may require larger sewer lines than are necessary to serve the subdivision and future development, and adjacent areas. In the event that larger lines are required, then the developer shall be entitled to participating aid from the City on oversized lines when City funds become available.
11. Should a lift station, either temporary or permanent be necessary to provide sanitary sewer service to the subdivision, the developer shall construct the station and all appurtenances at his own expense. If and when the lift station is no longer needed, unless other provisions are made, the property shall remain as the City of Pelican Bay for reuse or disposal.
12. Sewer service lines for each lot shall have a minimum internal diameter of four (4") inches. Minimum cover at the property line shall be two (2') feet. Tracer tape shall be installed to indicate the location of the sewer stub out.
13. Offsite sewerage utilities shall be constructed by developers at no expense to the City.
14. Prior to acceptance, the sanitary sewers shall be subjected to an air leakage test and mandrel test.
15. Before the sewer lines are accepted by the City, an inspection will be done, with the contractor on site of all manholes to ensure the correct elevation and operation of all items
16. Water services shall not be provided until all requirements are met.
17. The City Engineer may require, at the developer's expense, a TV examination of the sewer prior to acceptance.

18. The design of sewers shall conform to the criteria set forth in "WPCF Manual of Practice No. 9", latest edition as published by the American Society of Civil Engineers and the Water Pollution Control Federation and "Design Criteria for Sewage Systems" published by the TCEQ.

## 5.9 Roadway Facilities Standards

### 5.9.1 Streets and Thoroughfares

Words not defined in this section concerning perimeter and approach streets have the meanings ascribed to them generally in this Subdivision Ordinance.

"Approach street" means a street other than a perimeter street that provides access to and from an improved street/thoroughfare.

"Arterial street" means either a major collector street or a minor collector street, as defined herein.

"City standards" means the street requirements for street size and right-of-way contained in the City's Subdivision Ordinance and the City's public works construction standards for streets and infrastructure.

"Collector street" means either a major collector street or a minor collector street, as defined herein.

"County plat records" means the plat records of Tarrant County.

"Developer" means the owner of land proposed to be developed as a residential or nonresidential subdivision, or the owner's representative.

"Development" means any activity that requires the submission of a subdivision plat or the securing of a building permit.

"Escrow" means money placed in the possession of the City for the purpose set out in this Section, including, but not limited to, the purchase of right-of-way, design and construction of drainage, sanitary sewer, water facilities, curb, gutter, and pavement.

"Frontage" means that side of a lot, parcel, or tract abutting a street right-of-way.

"Local street" means a street that distributes traffic to and from residences. It is typically short in length and may be noncontinuous to discourage through traffic.

"Major collector street" means a major heavy traffic carrier that receives traffic from collectors and distributes it to major activity centers. It may also feed through traffic to freeways. Uses served include but are not limited to major educational facilities, concentrations of high density commercial, regional commercial facilities, other concentrated commercial facilities, and industrial complexes.

"Minor collector street" means a perimeter street that carries traffic from residential streets to Major Collector Streets. It typically serves uses such as medium and high density residential, limited commercial facilities, elementary schools, offices and direct access to industrial parks.

“Perimeter street” means a street which is adjacent and contiguous to a subdivision or development or one whose width lies partly inside and partly outside a subdivision or development.

“Residential collector” street means a perimeter street that carries traffic from local streets to other collector streets. It typically serves low and medium residential, limited commercial facilities, elementary schools, some small offices and direct access within industrial parks.

“Right-of-way” means strip of land, other than a drainage or utility easement, occupied or intended to be occupied by a street, crosswalk, railroad road, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another public use.

“Subdivider” means a person who:

- (1) Having an interest in land, causes it, directly or indirectly, to be divided into a subdivision;
- (2) Directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel, site, unit, or plot in a subdivision; or
- (3) Engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development, a subdivision or an interest, lot, parcel, site, unit, or plot in a subdivision.

- A. Responsibility for Adequacy of Streets and Thoroughfares. The property owner shall assure that the subdivision or development is served by adequate streets and thoroughfares, and shall be responsible for the costs of rights-of-way and street improvements, in accordance with the following policies and standards, and subject to the City’s participation in the costs of oversize facilities.

The subdivider shall construct all streets to city standards in rights-of-way as required by the Thoroughfare Plan or other valid development plans approved by the City, subject to participation policies stated in this ordinance. Streets (including sidewalks) which deadend at power lines, railroad, or similar rights-of-way, and are intended for future extension shall be constructed in the full right-of-way as required by the Thoroughfare Plan for half the distance across such right-of-way for each side. Developers of property abutting only one side of a street are responsible for the minimum paving widths prescribed by City regulations.

- B. General Adequacy Policy. Every subdivision or development shall be served by streets and thoroughfares adequate to accommodate the vehicular traffic to be generated by the development. Proposed streets shall provide a safe, convenient and functional system for traffic circulation, and shall be properly related to the City’s Thoroughfare Plan, road classification system, master plan and any amendments thereto, and shall be appropriate for the particular traffic characteristics of each development.
- C. Road Network. New subdivisions and developments shall be supported by a road network having adequate capacity, and safe and efficient traffic circulation. The adequacy of the road network for developments of more than 75 dwelling units, or

for developments involving collector or arterial streets not appearing on the City's adopted Thoroughfare plan, shall be demonstrated by preparation of a traffic impact analysis, which takes into consideration the need to accommodate traffic generated by the development, land to be developed in common ownership and other developed property. In the event that the property to be developed is intended as a phase in a larger development project, or constitutes a portion of the land to be ultimately developed, the City may require a demonstration of adequacy pursuant to this section for additional phases or portions of the property as a condition of approval for the proposed plat.

- D. Approach Roads and Access. All subdivisions or developments must be connected to the City's improved thoroughfare and street system by two or more approach roads of such dimensions and approved to such standards as are hereinafter set forth. Connection of a subdivision to the City's street system with only one approach will require special approval by the City. Requirements for dedication of rights-of-way and improvement of approach roads may be increased depending on the density or intensity of the proposed development if such need is demonstrated by traffic impact analysis. Access to all lots therein must be suitably improved or secured by provisions contained in these regulations.

- E. Off-site Improvements. Where traffic impact analysis demonstrates the need for such facilities, the property owner shall make such improvements to off-site collector and arterial streets and intersections as are necessary to mitigate traffic impacts generated by the development or related developments. The City may participate in the costs of oversize improvements with the subdivider or developer pursuant to Section 6.1.

- F. Street Dedications.

Dedication of Right-of-Way. The property owner shall provide all rights-of-way required for existing or future streets, and for all required street improvements, including perimeter streets and approach roads, as shown in the Thoroughfare Plan or other valid development plans approved by the Planning and Zoning Commission or City Council.

The subdivider shall provide all right-of-way required for existing or future streets, including perimeter streets, as shown in the Thoroughfare Plan or other valid development plans approved by the City. In the case of perimeter streets, half of the total required right-of-way for such streets shall be provided. However, in some instances more than half shall be required, depending on the actual or proposed alignment of the street. A minimum parkway width of ten feet shall be provided along existing constructed thoroughfares. In such cases, no additional right-of-way will be required, except at intersections or other locations when deemed necessary by the City's consulting engineer.

- G. Perimeter Streets.

(1) Dedication requirement.

(a) A subdivider shall dedicate a portion of the right-of-way for perimeter streets sufficient for the type of street that is reflected in the City's Land Use and Thoroughfare Plan and/or subdivision regulations at that location. The minimum width of the dedication shall be based on the following street standards as provided in the thoroughfare section of the Community Development Plan:

Local	31' of pavement, 50' right-of-way
Residential Collector	36' of pavement, 60' right-of-way
Minor Collector	44' to 48' of pavement, 80' right-of-way
Major Collector	72' of pavement,* 120' right-of-way

\*Exclusive of center or right hand turn facilities

(b) The subdivider shall dedicate those portions of the right-of-way lying between the center line of the perimeter street and the nearest property line of the subdivided property. If a subdivision borders only one side of a perimeter street, the subdivider is responsible for dedicating right-of-way needed for the one-half of the street right-of-way that is contiguous to the subdivider's property. If a subdivider owns a tract of land that is bordered by a perimeter street on more than one side, the subdivider is responsible for dedicating appropriate right-of-way for the entire width of the perimeter street.

(2) Limitation on dedication and construction. The requirements of this Section 8.2.25., et seq. for dedication and construction of perimeter streets are based upon the reasonable minimum standards that are designed to compensate for the effects of development upon City streets. No construction or payment of fees shall be required under this Section 8.2.25., et seq. in excess of those requirements directly attributable to or directly benefiting the particular development. A subdivider is not required to dedicate right-of-way along any one perimeter street greater than one-half of a 120-foot right-of-way (60 feet). It is presumed that any right-of-way requirements greater than 120 feet in width are designed to accommodate arterial-type thoroughfares that provide transportation services not attributable solely to the surrounding development.

(3) Additional right-of-way. When a subdivider is required to dedicate right-of-way for a perimeter street or to construct perimeter street improvements the City may require the subdivider to dedicate right-of-way for ancillary drainage improvements and to construct necessary supporting drainage improvements.

(4) Required paving/construction. Minimum width of a two-lane thoroughfare section shall be 25 feet back of pavement to back of pavement. Required pavement and right-of-way widths for various types of thoroughfares and streets are attached as

Appendix A to this Ordinance, which shall also be attached as Appendix A to the Subdivision Ordinance. Construction of perimeter and approach streets shall conform to City standards.

H. Specific perimeter street requirements.

(1) Local streets. When development occurs adjacent to a perimeter street that is not designated as an arterial or collector street on the comprehensive land use plan, the developer shall comply with the following requirements:

(a) Existing street. If the local street adjacent to the subdivision is already built to City standards, the developer shall, at the option of the City, prior to acceptance of the subdivision by the City:

1. Dedicate any additional right-of-way needed for other public improvements directly adjacent to the developer's side of the existing street and right-of-way; or
2. Install, reinstall, or upgrade any curb, gutter, drainage, sidewalks, signage, lighting, or other improvements as determined by the City engineer to be required by City standards.

(b) Perimeter street fee for existing street. If the perimeter street was constructed by a prior developer under the provisions of this Section 8.2.25., et seq., then the current developer shall be charged a one-time perimeter street fee. The fee shall be established as one-half the cost per linear foot of constructing the perimeter street and related improvements multiplied by the number of linear feet of the perimeter street adjacent to the new development. The developer who constructed the street shall submit copies of contracts to the City to establish the cost of the project that is subject to rebate. The current developer shall pay this fee to the City before acceptance of the subdivision by the City.

(c) No existing street; developer responsibility for construction; pro rata rebate. If the local perimeter street adjoining the development has not been constructed the developer must construct a complete 31-foot street with curb, gutter, drainage facilities, sidewalks, and signage in conformance with City standards. The initial developer is required to construct a complete street because it is impractical and unsafe to build only one-half of a two-lane street. The developer is responsible for all construction, engineering, testing, and inspection costs. A developer required to construct the full street surface under this provision will be eligible to receive a rebate of one-half of the cost of the street, curb, gutter, drainage facilities, sidewalks, signage and related costs when development occurs on the opposite side of the street. The construction required by this section shall be completed prior to acceptance of the subdivision by the City.

(2) Collector streets. When development occurs adjacent to a perimeter street, which is designated as a major collector or minor collector street on the thoroughfare

section of the Community Development Plan, the developer shall comply with the following requirements:

(a) Existing street. If the minor or major collector street adjacent to the subdivision is already built to City standards, the developer shall:

1. Dedicate any additional right-of-way needed for other public improvements directly adjacent to the developer's side of the existing street surface and right-of-way; and

2. Install, reinstall, or upgrade any curb, gutter, drainage, sidewalks, signage, lighting, or other improvements as determined by the City engineer to be required by the City standards.

(b) Perimeter street fee for existing street. If the perimeter street was constructed by a prior developer under the provisions of this Section 8.2.25., et seq., then the current developer shall be charged a one-time perimeter street fee. The fee shall be established as one-half the cost per linear foot of constructing the perimeter street and related improvements multiplied by the number of linear feet of the perimeter street adjacent to the new development. The current developer shall pay this fee to the City prior to acceptance of the subdivision by the City.

(c) No existing street; developer responsibility for construction. If the perimeter street adjoining the development is proposed to be a major or minor collector street, and the street has not been constructed or is in such condition that complete reconstruction is, in the opinion of the City Council, necessary, the developers along each side of the street must construct two complete lanes with curb, gutter, signage, drainage and sidewalk facilities in conformance with City standards. The developer is responsible for all construction, engineering, testing, and inspection costs. Construction of the street or portion of the street, as required by the City, must be completed prior to acceptance by the City of the subdivision adjacent to the perimeter street.

(3) Time period for rebates. If the City collects a rebate as provided for in subsections (a)(2) or (b)(2), above, within ten years of the acceptance of the street by the City, it shall pay the collected amount to the developer who originally constructed the street as soon as practicable after receipt of the funds. At the expiration of the tenth year, a developer is no longer entitled to receive a rebate.

I. Requirement for dedication and construction of approach streets

(1) Nonavailability of approach street access. If sufficient vehicular access approaching the subdivision is not available to serve the proposed subdivision as determined by the City Council, the developer must select among the following alternatives:

(a) Discontinue development until an approach street has been installed providing access to and from an improved street/thoroughfare;

(b) Petition the City Council to expedite the construction of an approach street serving the proposed subdivision under its regular capital improvement program; or

(c) Construct the approach street in order to provide required access to the proposed subdivision. The developer will be responsible for all costs associated with the installation of necessary approach streets, including, but not limited to engineering, surveying, testing, easement preparation easement and right-of-way acquisition, and inspection.

(2) Credit; pro rata rebate. A developer who installs an approach street pursuant to the provisions of this section is entitled to a credit for all costs associated with the installation of the approach street against any street impact fees that may be lawfully assessed against the developer for that portion of the approach street constructed. In addition, the developer is entitled to a pro rata rebate from any impact fees or perimeter street fees which may be lawfully assessed and collected by the City for the portion of the approach street constructed by the initial developer. An initial developer is entitled to a pro rata rebate for a period of ten years following completion of the approach street. At the expiration of the tenth year the developer is no longer entitled to receive the rebate.

(3) Oversizing. When required for the proper and orderly growth of the City, the City Council may require a developer to install an approach street larger than necessary to support the specific development. If the developer is required to install an approach street larger than necessary to serve the specific development, the developer will be reimbursed by the City for the difference in cost between the cost of installing the oversized street and the cost of installing a street meeting minimum City standards required for the type of street required to serve the development. The City will have ten years from the date of completion of the street to reimburse the developer for the difference in cost for the oversizing required.

(a) Credit for development fees. The developer will receive a full credit for any impact fees that may be lawfully assessed against the developer for that portion of the approach street constructed. In addition, the City may compensate the developer for the difference in cost mandated by oversizing by crediting up to 50 percent of development fees charged against any portion or phase of the development.

(b) Transfer of credit. Upon written request from the developer, credit for development fees may be transferred from the current development project to subsequent development projects, subdivisions or phases undertaken by the developer. Such transfers must be approved by the City Council.

(c) Time limit for payment. Any balance remaining due and owing from the City to the developer for oversizing at the end of ten years will be paid in full at that time by the City.



J. Escrow funds

(1) Established. The City shall establish an escrow fund for the deposit of all street pro rata fees. A separate escrow fund shall be established for each street constructed by the developer. All monies received from subsequent developments or subdivisions for pro rata rebate shall be deposited into the specific escrow fund established. Funds in a specific escrow account shall be used only for the project for which the particular escrow fund was established. The City shall have sole authority to determine the timing and priority of the construction of all streets with escrowed funds.

(2) Payments. Twice each year on January 30th and July 31st, the City Administrator shall inventory the escrow account for each street to determine what percentage of those monies is allocable to reimburse oversizing cost owned by the City as determined under section 8.2.25.3. This allocation shall be determined in the same proportion that the costs of the oversized street bears to the cost of the street required to serve the development. Upon completion of the inventory, the City Administrator shall transmit all escrow funds due and owing to the appropriate developers. Upon payment of these funds, the City will receive credit for the amount of the money allocable toward its reimbursable oversizing requirements as set forth section 8.2.25.3.

(3) Maximum payment. A developer is not entitled to receive reimbursement for a sum greater than the initial cost of the street, less the pro rata share of the street that would have been attributable to the initial developer under this Section 8.2.25., et seq.

(4) When City may take possession of funds. In the event that the City collects an escrow or pro rata fee under the terms of this Section 8.2.25., et seq. and the original developer no longer exists or cannot reasonably be located, the City may, after a period of six months, take possession of the funds and use them to make street improvements in the City.

K. Deadlines; adjustments

(1) Time for payment or construction. All construction or escrow and payment of funds by a developer as required in this Section 8.2.25., et seq. shall be due and payable prior to acceptance of the subdivision by the City. Fees or construction requirements shall be paid for all property that is final platted at time of construction of the subdivision.

(2) Adjustment. The City Council may, in appropriate cases and based upon specific facts presented, authorize an adjustment, offset or waiver of any construction or fee payment requirements under Section 8 where it is determined that such requirements place an unreasonable burden on the development, do not bear a rough proportionality to the requirements necessary to serve the development or offset the

impact of the development or when all or a portion of the street will be brought up to City standards by the Texas Department of Transportation.

(3) Who may request adjustment. Requests for an adjustment in connection with any perimeter or approach street may be made by a developer or subdivider or an authorized agent of a developer or subdivider.

(4) Procedure for requesting adjustment. The exclusive method for requesting an adjustment is the submittal of the request as part of the preliminary platting requirements set forth generally in the Subdivision Ordinance. Any such request is deemed invalid and waived if it is not submitted at the time that a preliminary plat is submitted in accordance with the Subdivision Ordinance or if such preliminary plat fails to: (1) conspicuously state in large, bold text the words "Perimeter/Approach Street Adjustment Requested"; (2) provide precise drawings of the street(s) as if built without any adjustment and in strict accordance with Section 8 (including but not limited to street location, width and width of right-of-way, and all other design standards); (3) provide precise drawings of the street(s) as if built as proposed to be adjusted (including but not limited to street location, width and width of right-of-way, and all other design standards); or (4) provide a detailed description of all studies, data, documentation and other available information justifying the requested adjustment, including but not limited to information demonstrating that the strict application of Section 8: (A) places an unreasonable burden on the development; (B) does not bear a rough proportionality to the requirements necessary to serve the development or offset the impact of the development; or (C) is not necessary due to street upgrades to be performed by or at the expense of the Texas Department of Transportation.

(5) Procedure for approval/denial of adjustment. In conjunction with its duties under the Subdivision Ordinance, the Planning and Zoning Commission shall recommend to the City Council approval, denial or modification of any requested adjustment. Only the City Council may grant final approval of a requested adjustment. When the City Council receives a recommendation from the Planning and Zoning Commission concerning a requested adjustment, the City Council shall schedule a public hearing on the matter and shall endeavor to consider information and hear testimony from the City's engineer, traffic consultant or any other interested party. The public hearing shall be scheduled so as to allow for a decision by the City Council on the preliminary plat as a whole in accordance with the Subdivision Ordinance plat-approval process. At the close of the public hearing, the City Council may vote to: (1) approve the adjustment; (2) approve the adjustment with conditions; (3) not approve the adjustment, but return the plat to the Planning and Zoning Commission for further consideration; (4) not approve the adjustment; or (5) table the decision until the City Council makes a decision on the approval of the preliminary plat as a whole. The City Council may approve the adjustment if the City Council decides that the strict application of this Section as applied to the particular development at issue: (1) places an unreasonable burden on the development; (2) does not bear a rough proportionality to the requirements necessary to serve the development or

offset the impact of the development; or (3) is not necessary due to street upgrades to be performed by or at the expense of the Texas Department of Transportation.

5.9.2 Design Standards

- A. Pavement and right-of-way width: All streets shall be constructed on stabilized subgrade. Design and construction of streets shall conform to the following schedule:

Subgrade stabilization to 6" depth:

<u>Soil PI</u>	<u>Stabilization Method</u>
0 - 10	3% Cement
11 - 16	Mechanical Compaction
17 +	6% Lime

<u>Type Street</u>	<u>ROW</u>	<u>Pavement Width (Back of Curve)</u>
Thoroughfare	80'-100'	49' (with curb and gutter)
Collector	60'	38' (with curb and gutter)
Local	50'	31' (with curb and gutter)
Residential Estates	60'	22' (no curb and gutter)

<u>Type Street</u>	<u>Reinforced Concrete</u>	
	<u>Thickness</u>	
Thoroughfare	8" <sup>(1)</sup>	
Collector	6" <sup>(1)</sup>	
Local	5" <sup>(2)</sup>	
Residential Estates	5" <sup>(2)</sup>	

<sup>(1)</sup> Determine reinforcing from strength design based on expected traffic load.

Minimum steel ratio = 0.0012.

<sup>(2)</sup> Minimum steel ratio = 0.0012

- B. Vertical alignment: Grades of streets shall be connected by vertical curves of a minimum length expressed as a multiple of the algebraic difference between the rates of grades, expressed in feet per hundred feet, and the values shown.

multiple of algebraic difference	<u>Design speed</u>			
	30	40	50	60
Crest vertical curve	28	50	80	150
Sag vertical curve	35	50	70	100

- C. Horizontal alignment: The center line curve of streets and alleys shall have a minimum radius as follows:

<u>Classifications</u>	<u>Minimum center line radius (feet)</u>
Thoroughfare	500
Collector	300
Local (commercial or industrial)	300
Residential	150
Loop streets and alleys	75

The maximum deflection of alignment permitted without use of curve shall be three (3) degrees.

- D. Reverse curves: Reverse curves on thoroughfares and collector streets shall be separated by a minimum tangent of one hundred (100') feet.
- E. Cul-de-sacs; Dead end streets;
  - 1. The maximum length of a cul-de-sac shall be four hundred (400) feet.
  - 2. Cul-de-sacs shall have a minimum right-of-way of fifty (50') feet and a minimum back of curve of forty (40') feet for single family and two family uses and a minimum right-of-way radius of sixty (60') feet and a minimum back of curve radius of forty-eight (48') feet for all other uses. A dead end street may be up to (400) feet long if a temporary cul-de-sac is provided according to the above standard.
- F. Street intersections: Street intersections shall be perpendicular.
- G. Partial or half streets: Partial or half streets shall not be authorized.
- H. Street names: Names of new streets shall not duplicate names of existing streets.
- I. Boundary streets:
  - 1. New streets on the boundary of a proposed subdivision shall conform to the right- of-way width and construction requirements of this ordinance.
  - 2. Half streets shall be built to complete existing half streets.
  - 3. When the proposed subdivision abuts an existing right-of-way that does not conform to the requirements of this ordinance, the developer shall dedicate right- of-way sufficient to make the right-of-way conform to this ordinance.
  - 4. When the proposed subdivision abuts an existing street that does not conform to, this ordinance, the developer may:
    - a) construct the street according to the standards of this ordinance;

- b) place cash or other suitable security in deposit with the City of Pelican Bay to pay one-half the cost of constructing the street according to the standards of this ordinance; or
  - c) construct the street according to the standards of this ordinance for a distance equal to one-half the length of the existing abutting street.
- J. Curb and gutter: Except in Residential Estates Subdivisions (minimum lot sizes of two acres or more), curb and gutter shall be installed by the developer on both sides of all interior streets. Provisions for curb and gutter shall be made on boundary streets in accordance with the paragraph entitled "Boundary Streets".
- K. Street signs: The City shall install street signs, at the developer's expense, at all intersections within the subdivision. A fee for this service shall be paid prior to acceptance of the streets and utilities.
- L. Laboratory testing: The City shall retain the services of a reputable commercial testing laboratory or will perform the necessary tests on subgrade soils, flexible base material, concrete, and other construction materials, to verify that specifications are being met. These laboratory tests will be made at the developer's expense and may include the following:
  - 1. Moisture-density relationships
  - 2. Gradation
  - 3. Atterberg limits
  - 4. In-place moisture-density
  - 5. Concrete strength
  - 6. Other as required.
- M. Street Posts and Markers. The developer shall pay for the cost of purchasing and installing street posts and markers at each street intersection, which posts and markers shall be of the same type used throughout the City, and as specified in the City of Pelican Bay Addendum to the NCTCOG Standard Specifications for Public Works Construction.
- N. Street Lighting. The subdivider shall provide at no expense to the City and as a part of the street improvements, street lighting in accordance with the following standards and such standards as designated in the Zoning Regulations and as specified in the City of Pelican Bay Addendum to the NCTCOG Standard Specifications for Public Works Construction.

O. Alleys.

1. Alleys shall be designed to allow fire department and waste collection vehicles to travel without impediment. A standard SU-20 design vehicle shall be able to negotiate all turns and intersections.
2. Access to residential property for required off-street parking shall be from the alley wherever paved alley access is available. Access from the alley shall not exclude another means of access from the front or side. No side lot or rear lot access to residential property shall be allowed from any arterial street as defined herein.
2. Alley drive approaches shall have a radius of five (5) feet to assist ingress and egress to the lot and provide motorists passing one another with additional paved area.

5.9.3 Traffic Impact Analysis

Whenever these regulations require a traffic impact analysis, the following elements shall be included:

- A. General Site Description. The traffic impact analysis shall include a detailed description of the roadway network within one (1) mile of the site, a description of the proposed land uses, the anticipated stages of construction, and the anticipated completion date of the proposed land development. This description, which may be in the form of a map, shall include the following items: (a) all major intersections, (b) all proposed and existing ingress and egress locations, (c) all existing roadway widths and rights-of-way, (d) all existing traffic signals and traffic-control devices, and (e) all existing and proposed public transportation services and facilities within a one (1) mile radius of the site.
- B. Proposed Capital Improvements. The traffic impact analysis shall identify any changes to the roadway network within one-half (0.5) mile of the site, proposed by any governmental agency. This description shall include the above items as well as any proposed construction project that would alter the width and/or alignment of roadways affected by the proposed development.
- C. Roadway Impact Analysis.
  1. Transportation Impacts.
    - a) Trip Generation. The average weekday trip generation rates (trip ends) and the highest average hourly weekday trip generation rate between 4 P.M. and 6 P.M. for the proposed use shall be determined based upon the trip generation rates contained in the most recent edition of the **INSTITUTE OF TRANSPORTATION ENGINEERS, TRIP GENERATION Manual**.

- b) Trip Distribution. The distribution of trips to arterial and collector roadways within the study area in conformity with accepted traffic engineering principles, taking into consideration the land use categories of the proposed development; the area from which the proposed development will attract traffic; competing developments (if applicable); the size of the proposed development; development phasing; surrounding land uses, population and employment; and existing traffic conditions identified.
  2. Adequacy Determination. The roadway network included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing roadways identified as arterials can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service C.
- D. Intersection Analysis.
1. Level of Service Analysis. For intersections within the roadway traffic impact analysis area described in subsection (A) herein, a level of service analysis shall be conducted for one day Tuesday through Thursday and Friday on all intersections, including site driveways within one (1.0) mile of a proposed site. The City may waive analysis of minor intersections within the one-mile radius. The highest average hourly peak volume between 4 P.M. and 6 P.M. shall also be recorded. The level of service analysis shall take into consideration the lane geometry, traffic volume, percentage of right-hand turns, percentage of left-hand turns, percentage of trucks, intersection width, number of lanes, signal progression, ratio of signal green time to cycle time (G/C ratio), roadway grades, pedestrian flows, and peak hour factor.
  2. Adequacy Analysis. The intersections included within the traffic impact analysis shall be considered adequate to serve the proposed development if existing intersections can accommodate the existing service volume, the service volume of the proposed development, and the service volume of approved but unbuilt developments holding valid, unexpired building permits at level of service C.
- E. Effect of Adequacy Determination. If the adequacy determination for roadways and intersections indicates that the proposed development would cause a reduction in the level of service for any roadway or intersection within the study area below the level of service required, the proposed development shall be denied unless the developer agrees to one of the following conditions:
1. the deferral of building permits until the improvements necessary to upgrade the substandard facilities are constructed, as shown in the City's Capital Improvements Program;

2. a reduction in the density or intensity of development;
3. the dedication or construction of facilities needed to achieve the level of service required; or
4. any combination of techniques identified that would ensure that development will not occur unless the level of service for all roadways and intersections within the traffic impact analysis study are adequate to accommodate the impacts of such development.

#### 5.10 Drainage Facilities Standards

##### A. General Requirements.

1. Drainage facilities shall be designed and constructed at such locations, size and dimensions to adequately serve the development and the contributing drainage area above the development. The developer shall provide all the necessary easements and rights-of-way required for drainage structures including storm drains and open channels, lined or unlined.
2. Storm drainage released from the site will be discharged to a natural water course of an adequate size to control the peak runoff expected after development.
3. The developer shall be responsible for the necessary facilities to provide drainage patterns and drainage controls such that properties within the drainage area, whether upstream or downstream of the development, are not adversely affected by storm drainage from facilities on the development.
4. The requirements set forth herein are considered minimum requirements. The developer and his engineer shall bear the total responsibility for the adequacy of design. The approval of the facilities by the City Engineer in no way relieves the developer of this responsibility.
5. No individual, partnership, firm, or corporation shall deepen, widen, fill, re-route, or change the course or location of any existing ditch, channel, stream, or drainage way, without first submitting engineering plans for approval by the city engineer. Such plans shall be prepared by a professional engineer, registered in the State of Texas, and experienced in civil engineering.

##### B. Design of Facilities.

1. Computations for storm drainage from watersheds less than fifty (50) acres may be based upon the rational method, using the Texas Department of



Transportation's frequency curves for Tarrant County. For larger watersheds, SCS and USACOE HEC-1 methods shall be used.

2. Underground drainage structures for residential areas shall be designed for a five (5) year frequency rainfall, shopping centers and industrial developments for a ten (10) year frequency and downtown and central business districts for a twenty-five (25) year frequency rainfall.
3. Open channel drainage structures shall be designed for the one hundred (100) year rainfall and shall provide for one (1') foot of free board with sub-critical flow conditions.
4. The drainage system shall be designed and constructed to handle rainfall runoff that originates in and crosses the subdivision.
5. The drainage system shall be designed so that water shall not be greater than curb deep and shall not flow farther than one thousand (1,000') feet before reaching an inlet in thoroughfare, collector, and local streets under design rainfall conditions. Curb inlets shall be installed at the upstream end of all valley gutters crossing thoroughfare and collector streets.
6. Street crowns shall not be flattened or warped from one side of the street to the other side.
7. The developer shall pay for all costs of the drainage system.
8. Detention Facilities. Lakes, detention ponds, and retention ponds may be constructed in all areas provided they are approved by the City Engineer. Easements shall be provided to ensure protection of these areas for maintenance purposes.
9. Alternate Facilities. Other innovative drainage concepts will be considered if approved by the City Engineer.

C. Dedication of Drainage Easements

1. General Requirements. When a subdivision or development is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water or drainage easement conforming substantially to the line of such watercourse, and of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

2. Access Easements. The property owner must provide sufficient access on each side of and parallel to creeks or drainage ways for maintenance purposes. The access shall be above the base flood elevation and accessible to vehicles and equipment. Access must also be provided at a maximum 1,200 foot spacing along streets or alleys. The location and size of the access easement shall be determined by the City Engineer. The maximum width of the access easement shall be fifteen (15) feet. Permanent monuments, the type and locations of which to be determined by the City Engineer, shall be placed along the boundaries of the access easement and private property. This access easement shall be included in the dedication requirements of this section.
3. Drainage Easements
  - a. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width, depending on slopes, for drainage facilities shall be provided across property outside the street lines and with satisfactory access to the street. Easements shall be indicated on the plat. Drainage easements shall extend from the street to a natural watercourse or to other drainage facilities.
  - b. When a proposed drainage system will carry water across private land outside the subdivision or development, appropriate drainage easements must be secured by the developer.
  - c. Drainage easements shall be provided where any type of drainage system, including swales are used to convey storm water across any lot or tract in the development from an adjacent lot or tract whether or not the lot or tract is within the development or off-site.
  - d. All areas within any subdivision located in the one hundred (100) year flood plain of any river, creek or tributary stream shall be dedicated as a drainage and utility easement. The form and wording of the easement shall be approved by the Planning and Zoning Administrator.
- D. Grading. Site, street or development grading shall conform to the specifications in the Engineering Design Manual. All permeable surfaces within the development shall be graded to a smooth and uniform appearance that can be easily mowed with a small residential riding lawn mower.

- E. The developer shall provide plans and specifications and design calculations for all drainage structures. For flows in excess of an eight-four inch (84") pipe, unlined, open channels with concrete pilot channel constructed may be used. All open channels, which are not concrete lined, shall be designed to prevent erosion. The types of methods used for prevention of erosion shall be specifically approved by the City Engineer.

#### 5.11 Utility Standards

##### A. Easements

1. The property owner shall be required to furnish all easements and rights-of-way required to serve the development. Where reasonable, all utilities, both public and private, should be located within streets or alley rights-of-way. Notwithstanding the above developers may offer easements outside of street and alley rights-of-way. All utility facilities existing and proposed throughout the property shall be shown on the preliminary plat and accompanying development plans.
2. Easements shall be provided for both municipal and private utilities. Municipal easements for water, sanitary sewer and storm sewer shall be a minimum of fifteen (15) feet in width. All municipal easements may be wider as determined by the City Engineer depending on the depth and the size of the utility. Private utility easements must be sized by the utility company. Proper coordination shall be established between the City's property owner and the applicable utility companies for the establishment of utility easements on adjoining properties.
3. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear of residential lot lines, perpetual unobstructed easements at least fifteen (15) feet in width shall be provided along selected side lot lines for satisfactory access to the street or rear lot lines. Easements shall be indicated on the plat.
4. Water, sewer or drainage easements shall not straddle lots unless approved by the City Engineer.
5. Electric, gas, telephone and cable TV easements shall meet the requirements of the respective utility company and shall not conflict with or be coincident with water or sewer easements.

- B. Damage. The contractor and owner shall be responsible for all damage to existing public improvements caused during construction of new public improvements.

#### 5.12 Public Lands Requirements

- A. Reservation of Land. Preliminary plats and final plats shall reserve land for future public use as designated in the Comprehensive Plan and associated plans for future public facilities and utilities. These uses include, but are not limited to: parks, recreation and open space areas, schools, libraries, police and fire stations, pump stations, water storage tanks, and lift stations. Land reserved shall be of a suitable size, dimension, topography, and character for the designated purpose.
- B. Procedure for Reserving Land. All final plats and development plats shall provide for the necessary reservation of land for future public use. All plats submitted for approval shall indicate sites to the City for public use. Boundaries of land reserved for public use may be adjusted subject to the approval of the Council unless otherwise provided by agreement.
- C. Parks, School Sites, Public Areas. Preliminary subdivision plats shall provide sites for schools, parks, or other public areas as set out in the City's Comprehensive Plan. A fee in amount of seven hundred fifty dollars (\$750.00) for each single family residential unit and each multifamily unit built in the city shall be paid to the City of Pelican Bay at the time of application for a building permit. Said fee shall be retained in a special account to be used for park, recreation, and open space capital improvements, including purchase of land. The City Council retains the right to negotiate with the subdivider in individual cases in which the subdivider desires to donate property with special features and/or value. In such cases, the amount of the park fee may be reduced.

#### 5.13 Underground Utilities

- A. All subdivision and development plats shall demonstrate compliance with the following underground utility standards:
1. Except as otherwise herein provided, telephone lines, cable television utility lines, and all electric utility lines and wires shall be placed underground. In special or unique circumstances or to avoid undue hardships, the City Council may authorize exceptions from this requirement and permit the construction and maintenance of overhead electric utility lateral or service lines and of overhead telephone cable television lines and may approve any plat or site plan with such approved exceptions.

2. Final plats shall display signature approval by utility companies. No building permits shall be issued until such approval is obtained and recorded on the plat.
  3. Where electrical service is to be placed underground, circuits for street and site lighting, except street lighting standards, also shall be placed underground.
  4. Electrical, cable television and telephone support equipment (transformers, amplifiers, switching devices, etc.) necessary for underground installations in subdivisions shall be pad mounted or placed underground.
  5. All underground utilities, whether publicly or privately owned, shall be backfilled and compacted according to the City's specifications. Utility companies and contractors shall obtain a street cut permit before disturbing any pavement in public right-of-way.
  6. All public or privately owned underground utilities shall stub out all services from mains in all directions to the property lines in streets and in alleys where the services shall be stubbed out eighteen inches (18") inside the rear property line of platted lots and to the property line of unplatted property prior to commencing paving operations.
- B. Nothing herein set forth shall prohibit or restrict any utility company from recovering the difference between the cost of overhead facilities and underground facilities. Each utility whose facilities are subject to the provisions of this ordinance shall develop policies and cost reimbursement procedures with respect to the installation and extension of underground service.
- C. The Electric Utility Company may plan and construct overhead feeders and/or lateral lines on perimeters of subdivisions or property without obtaining an exception. Telephone and cable television lines may be constructed overhead where overhead electric utility lines are permitted.
- D. Nothing in this section shall prevent provision of temporary construction service by overhead utility lines and facilities and no exception shall be necessary to provide such temporary services.
- E. As used in this section, the terms "feeder lines," "lateral lines," and "service lines" shall have the following meanings:

1. Feeder Lines. Those electric lines that emanate from substations to distribute power throughout an area.
  2. Lateral Lines. Those electric lines that emanate from feeder lines and are used to distribute power to smaller areas of electric consumers. These electric lines are normally connected to a feeder line through a sectionalizing device such as a fuse or disconnect switch.
  3. Service Lines. Those electric lines, which through a transformer connect a lateral line to a customer's service entrance.
- F. All installations regulated by the provisions set forth herein shall be in conformance with the intent of this section and shall conform to any regulations and/or specifications that the various public utility companies may have in force from time to time.
- G. Nothing in this section shall be construed to require any existing facilities to be placed underground; provided, however, that where overhead lines exist on land that is to be platted, they shall be removed before the final plat is filed.

#### 5.14 Provision of Amenities

Amenities shall be required where approved pursuant to a Planned Development District or as required to be developed under the Pelican Bay Zoning Regulations. Where these amenities are owned and maintained by property owners in common or through an association of property owners, or where the amenities are to be dedicated to the City and are to be maintained publicly or privately through agreement with the City, the City may require any or all of the following:

- A. Plans and illustrations of the proposed amenities;
- B. Cost estimates of construction, maintenance and operating expenses;
- C. Association documents, deed restrictions, contracts and agreements pertaining to maintenance of the amenities, if appropriate; and
- D. Provision of surety as required for maintenance and other expenses related to the amenities, if appropriate.

#### 5.15. Protection of Drainage and Creek Areas

- A. Definitions and Methodology for Determining the Floodway Management Area (FMA) - The definitions for "floodway" and "floodway fringe" shall correspond to

those set forth by the Federal Emergency Management Agency (FEMA). For purposes of the National Flood Insurance Program, the concept of a floodway is used as a tool to assist the local community in the aspect of flood plain management. Under this concept, the area of the 100 year flood is divided into a floodway and floodway fringe. The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100 year flood may be carried without substantial increases in flood heights as defined by FEMA. The area between the floodway and boundary of the 100 year flood is termed the floodway fringe. The floodway fringe is the area, which can be used for development by means of fill according to FEMA and City engineering criteria.

For the purposes of this Ordinance, the Floodway Management Area (FMA) will correspond to the Floodway as defined by FEMA.

- B. Areas Where an FMA is Required - All drainage areas or regulated floodways as referenced by the current panel number(s) on the Floodway and Flood Boundary Map (FIRM Maps) shall be included in the FMA. If FEMA does not specify a Floodway Zone in any of the above creeks or their tributaries, it shall be the developer's responsibility to establish and identify the FMA. The determination shall be made by a registered professional engineer and in accordance with the Flood Hazard Prevention Ordinance and approved by the City Engineer. Where improvements to a drainage area are required by other sections of this ordinance or other ordinances of the City for the purpose of safety or other reasons related to drainage, those sections or ordinances shall also be observed. The FMA is intended to apply to a creek or channel, which is to remain open, or in its natural condition. The creek shall remain in its natural state unless improvements are permitted by the City due to the pending development of properties adjacent to or upstream of the required improvements.
- C. Ownership and Maintenance of the FMA - The area determined to be the FMA shall be designated on and as part of the final plat. Approximate locations shall be shown on zoning change requests and preliminary plats. The City, at its option, may place utility lines in the area designated as the FMA. The FMA may qualify under parkland dedication requirements or other open space requirements, if authorized in the City's Zoning Regulations or other ordinances. At the City's option, the FMA shall be protected by one of the following methods:
1. Dedication - Dedicated to the City of Pelican Bay; or
  2. Easement(s) - Creeks or drainage ways in tracts which have private maintenance provisions, other than single-family or attached housing platted lots, can be designated as the FMA by an easement to the City on the final

plat. Subdivisions with platted single-family or attached housing lots may designate the FMA by easement provided there is adequate maintenance provisions, but no lots or portions of lots may be platted in the easement unless specifically allowed by the City. The area designated as FMA may be identified by a tract number; or,

3. Recreational uses - Certain recreational uses normally associated with or adjacent to flood prone areas, except for uses involving structures, may be allowed in the FMA, such as golf courses. The uses allowed shall be in conformance with the Zoning Regulations and approved by the Planning and Zoning Commission and City Council.

Prior to acceptance of any drainage way as an FMA by the City, the area shall be cleared of all debris. Floodway Management Areas dedicated to the City shall be left in a natural state except those areas designated for recreational purposes.

- D. Design Criteria - The following design criteria shall be required for development adjacent to the FMA:

1. Adequate access must be provided along the FMA for public or private maintenance. An unobstructed area a minimum of twenty feet (20') wide with a maximum 5:1 slope (five feet horizontal to one foot vertical), the length of the floodway shall be provided adjacent to one side or within the FMA. On the opposite side of the drainage area, an unobstructed area having a minimum width of five feet (5') shall also be provided, if possible.
2. Lots in residential zoning districts shall not be platted in the FMA. If lots back to an FMA, at least two reasonable points of access to the FMA, a minimum of twenty feet (20') in width, shall be provided. Streets and alleys may qualify as access points. All areas of the FMA must be accessible from the access points. Lots used for attached housing may be platted in the FMA if the FMA is identified as an easement and is maintained as open space for use by the residents.
3. Public streets may be approved in the FMA by the Planning and Zoning Commission and City Council (if they conform to applicable engineering standards).
4. Whenever possible, public streets shall be constructed adjacent to the FMA to allow access for maintenance or recreational opportunities.



- E. Drainage areas, which have been altered and are not in a natural condition can be exempted from an FMA and this section at the discretion of the City Council upon recommendation of the City Engineer.
- F. All floodplain reclamation shall be according to the City's to the floodplain reclamation and preservation provisions contained in the Zoning Ordinance.

#### 5.16 Preservation of trees and landscaping

##### A. Definitions

Buildable area- That portion of a building site on which a building pad or building improvements may be erected, including the actual structure, driveway, pool, decks, and other construction shown on a site plan approved in connection with the issuance of a building permit.

Building pad-The actual base area of a building and an area not to exceed six feet around the foundation necessary for construction and grade transitions.

Building Lot Owner- The owner of a building lot or tract of land within the corporate limits of the city or within the city's extraterritorial jurisdiction who is not in the process of subdividing land.

Caliper- The diameter measurement of a tree trunk. Caliper of the trunk shall be measured 12 inches *above* the soil line for trees up to and including four-inch caliper size, and 18 inches above the ground for larger sizes.

Clear Cutting-The removal of ten or more protected trees from a property within a ninety (90) day period.

Critically alter- Uprooting or severing the main trunk of a tree, or any act which causes or may reasonably be expected to cause a tree to die. This includes, but is not limited to: damage inflicted upon the root system of a tree by machinery, storage of materials, or the compaction of soil above the root system of a tree; a change in the natural grade above the root system of a tree; an application of herbicidal chemical or the misapplication of beneficial chemicals; excessive pruning; placement of nonpermeable pavement over the root system of the tree; trenching within the primary root zone. Additionally, a tree may be considered critically altered if more than 25% of the primary root zone is altered or disturbed at natural grade, or more than 25% of the canopy is removed.

Critical root zone- The area within the drip line of the tree. As a practical matter, this is the acute portion of the tree's root system. Please refer to the Tree Exhibit attached as appendix A to this document.

Cut/fill-Areas where the natural ground level has been excavated (cut) or where fill

material has been brought in.

Developer- Any person who, in connection with the use of the land, is required to, or has, or is in the process of, making application to the city for subdivision plat approval of property within the corporate limits of the city or within the city's ETJ.

Diameter at breast height (DBH)- Diameter at breast height is the tree trunk diameter measured in inches at a height of 4 ½ feet above the soil line. If a tree splits into multiple trunks below 4 ½ feet, the trunk is measured at its most narrow point beneath the split.

Determination of exemption-A determination made by the landscape administrator or his or her designee that no tree permit or tree preservation is required for the site.

Drip line-Whichever is greater:

1. A vertical line running through the outermost portion of the canopy of a tree and extending to the ground, or...
2. If the tree is damaged or deformed, a circular area with a radius equal to two feet per inch of caliper.

Erosion hazard setback- The area along a drainage channel designated as an erosion setback under the city stormwater ordinance.

Exemption Area – An area that is clearly exempt from all tree replacement and tree protection requirements of this ordinance, as approved by the landscape administrator.

FEMA 100yr flood plain- The area designated as being within the one hundred year flood plain on the Federal Emergency Management Agency flood insurance rate map (FIRM) as of the effective date of this ordinance. The boundary may be verified and established through field surveys based on elevation. Any changes made by FEMA to the 100 year flood plain boundary after the effective date of this ordinance due to filling of the flood plain, channelization, or other drainage improvements shall not reduce the area in which tree preservation, replacement, or protection requirements apply.

Grubbing-Excavating or removing a significant part of the root system.

Historic tree- A tree which has been found by the city to be of notable historic interest because of its age, type, size, or historic association.

Landscape administrator-The individual or company appointed by the city council administrator to administer city ordinances related to tree preservation.

Municipal and public domain property: Property in which title is held in the name of a governmental entity. Examples include city buildings, county property, public parks, Corps of Engineers property, state right of way, libraries, fire stations, water tower sites, or similar other properties.

NRCS- National Resource Conservation Service

NRCS lake tree preservation zone – The area within an elevation two feet above the emergency spillway elevation of any NRCS lake.

Nondisturbance area- An area in which no development activity or vehicular traffic associated with the construction or development of land occurs.

Owner- Any person with an interest in land, or a lessee, agent, employee, or other person acting on behalf of the owner.

Pruning- The removal of dead, injured, or diseased limbs or roots to maintain plant health or the removal of limbs or roots to control or direct vegetative growth.

Protected tree- A quality tree with a trunk six inches or greater in caliper at four feet six inches above the ground. The caliper of a multi-trunk protected tree shall be determined by adding the total caliper of the largest trunk to one-half the caliper of each additional trunk.

Protective fencing- Chain link fencing, orange vinyl construction fence or other fencing at least 4 feet high and supported at a maximum of 10 foot intervals by approved methods sufficient to keep the fence upright and in place. The fencing shall be of highly visible material.

Quality tree- A tree species which typically has significant positive characteristics worthy of preservation, as listed in this section. (see appendix)

Root zone, primary-The area of undisturbed natural soil around a tree defined by a concentric circle with a radius equal to the distance from the trunk to the outermost portion of the dripline. (see appendix)

Specimen tree- A tree which has been determined by the city to be of high value because of its type, size, or other ~~professional~~ specific ?? criteria.

Tree- Any self-supporting woody plant which will attain a trunk caliper of two inches or more when measured at a point 4 ½ feet above ground level and normally an overall height of at least 15 feet with a canopy of at least 15 feet in caliper at maturity. A tree may have one main stem or trunk or several stems or trunks.

Tree board- A board appointed by the city council to carry out the duties and responsibilities set forth in this section. The planning and zoning commission shall constitute the tree board unless the city council appoints a separate tree board.

Tree protection sign- A sign describing prohibited conduct detrimental to trees and meeting specifications of the city's building official to be posted on the site upon approval of a tree permit.

Tree survey- A plan drawing that identifies the location of trees and contains the information set forth within the ordinance. The tree survey shall be prepared by an arborist, a licensed surveyor, a licensed landscape architect, or other qualified person approved by the landscape administrator. For projects of limited scope, the landscape administrator may approve a tree survey prepared by a non-professional if complete and accurate information is provided.

Tree topping- the severe cutting back of limbs to stubs larger than 3 inches in caliper within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Utility company, franchise utility, or public utility- A company or entity, or agent for a company or entity, that provides a utility service such as the provision of gas, electric, cable, or telephone service within the city.

#### B. Permits

A tree permit shall be obtained from the landscape administrator before critically altering any protected tree, except under any of the following circumstances:

- \* The protected tree endangers the public health, welfare or safety and immediate alteration is required.
- \* The tree has disrupted a public utility service due to a tornado, storm, flood or other act of God. Critical alteration shall be limited to the portion of the tree reasonably necessary to reestablish or maintain reliable utility service.
- \* The tree is located on the property of a licensed plant or tree nursery which as trees planted and growing on the premises for the sale or intended sale to the general public in the ordinary course of the nursery's business.
- \* The tree is located on a lot of record on which a single-family or duplex residence legally exists as the primary use, except those areas of such lots within a FEMA one-hundred year flood plain, erosion hazard setback zone, or for protected trees 27-inch caliper or greater in size shall not be exempt.
- \* The tree is dead, unless the tree was required under a landscape plan or was a required replacement tree.

#### C. Permit types

1. Limited Purpose Tree Permit- A limited purpose tree permit shall be approved prior to the critical alteration of one or more trees on any site where the removal of trees is not related to a construction project which requires issuance of a building permit or development permit. This shall not include alteration of trees for agricultural purposes. A limited purpose tree permit shall become void 180 days after the issuance date and does not require a fee paid to the city.
2. Construction Tree Permit-
  - a. Prior to any building, paving, grading, or construction of a subdivision or public improvement, an application for a construction tree permit shall be submitted concurrent with a preliminary or short form/combination plat. A development permit shall not be issued prior to issuance of a construction tree permit. A construction tree permit shall not be required prior to construction of a subdivision or public improvements if an application for a preliminary plat or preliminary-final plat has been filed prior to the effective date of this ordinance.
  - b. Prior to any building, paving, grading, or construction of a building other than a single-family or duplex residence. An application for a construction tree permit shall be submitted concurrent with a detailed site plan. A building permit shall not be issued prior to issuance of a construction tree permit. A construction tree permit shall not be required prior to construction of such a building if an application for a site plan has been filed prior to the effective date of this ordinance.
  - c. Prior to any building, paving, grading, or construction of a single-family or duplex residence on any lot containing a FEMA 100-year flood plain, NRCS lake tree preservation zone, or erosion hazard setback zone. An application for a construction tree permit shall be submitted concurrent with the application for a building permit. A development permit shall not be issued prior to issuance of a construction tree permit. A construction tree permit shall not be required prior to construction of a single-family or duplex residence if an application for a building permit has been filed prior to the effective date of this ordinance.
  - d. Prior to any building, paving, grading, or construction of a single-family or duplex residence on a lot larger than 20,000 square feet but not containing a FEMA 100-year flood plain, NRCS lake tree preservation zone, or erosion hazard setback zone. An application for a construction tree permit shall be submitted concurrent with the application for a building permit. A development permit shall not be issued prior to issuance of a construction tree permit. A construction tree permit shall not be required prior to construction of a single-family or duplex residence if an application for a building permit has been filed prior to the effective date of this ordinance.

e. Authorization to critically alter trees on the site shall be limited to those trees identified and approved for critical alteration as shown on documentation submitted for the construction tree permit.

f. A construction tree permit shall be valid for the period of the site plan, development permit, or building permit's validity, or a maximum of two years, whichever is less.

D. Applicability

Provisions of this ordinance shall apply to all new and existing development as stated therein. The following shall be exempt from tree preservation and replacement requirements:

1. Major drainage structures, including detention and retention basins, and including transitional slopes at the maximum slope allowed by the city's stormwater ordinance.
2. Golf courses
3. Hike/bike/equestrian trails
4. Sports fields open for public use, such as soccer, baseball, football, and the like
5. Equestrian centers
6. Critical alteration of any protected tree by a utility company in order to maintain appropriate existing utility services
7. Construction of utilities or public infrastructure.

**SECTION 6 PARTICIPATION POLICIES AND ESCROW POLICIES****6.1 General Standards****A. Facilities agreement.**

The subdivider shall be required to enter into an agreement with the City which shall govern his subdivision, pro rata payments, City participation in cost, escrow deposits, other future considerations, variances, non standard development, improvements to be dedicated to the City, improvements that will not be completed prior to filing of the final plat in the county records. This agreement shall be based upon the requirements of this ordinance; and shall provide the City with specific authority to complete the improvements required by the agreement in the event of failure by the developer to perform and to recover the full costs of such measures. The City may subordinate its facilities agreement to the prime lender if provided for in said agreement.

The facilities agreement shall be a binding agreement between the City and the developer specifying the individual responsibilities of the City and the developer. Unusual circumstances relating to the subdivision shall be considered in the facilities agreement such that the purpose of this ordinance is served for each particular subdivision. The developer shall indemnify the City against any claims arising out of the developer's subdivision.

**B. Prorata payments.**

The developer shall be responsible for the construction of oversize or off-site access, utilities, drainage and other improvements necessary for his subdivision unless other provisions are approved by the City Council. Provisions for reimbursement of costs in excess of those necessary to serve the subdivision and any other provisions, shall be made a part of the facilities agreement. For a period of five years following the filing of the final plat, subsequent subdivisions utilizing such facilities shall pay any cost due prior developers as the use by the new subdivision bears to the amount due. Such prorata amounts will be made a part of any subsequent facilities agreement, collected by the City and repaid to the original developer making such improvements, not to exceed his actual cost incurred.

All such reimbursements or prorations shall be based on the actual cost of the improvements at the time of their construction. The original developer shall therefore provide the City with acceptable documentation of actual construction costs from which calculation of reimbursable amounts will be made for inclusion in the facilities agreement.

1. Whenever the City agrees to accept escrow deposits in lieu of construction by the subdivider of the property under these regulations, the subdivider shall deposit an amount equal to his share of the costs of design and construction in escrow with the City. Such amount shall be paid prior to release of construction plans by the City's consulting engineer. In lieu of such payment at such time, the City may

permit the subdivider to contract with the City and shall agree in such contract that no building permit shall be issued for any lot included within said plat, or increment thereof, until the full amount of the escrow is paid, or a pro rata part thereof for the full increment if developed incrementally. The obligations and responsibilities of the subdivider shall become those of subdivider's transferees, successors, and assigns; and the liability therefor shall be joint and several.

2. The amount of the escrow shall be determined by using the average of the comparable bids awarded by the City in the preceding year or, if none exists, current market value of construction as determined by an estimate of the City's consulting engineer. Such determination shall be made as of the time the escrow is due hereunder.
3. If any street or highway for which escrow is deposited for, is constructed or is reconstructed by another governmental authority at no cost to the City, the escrowed funds and accrued interest shall be refunded to the subdivider after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the City and the other portion of the cost by another governmental authority, the difference between the subdivider's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.
4. As a condition of plat approval, the subdivider shall pay all fees, charges and assessments required to assure adequacy of public facilities to the subdivision or addition, as may be imposed under these or other regulations of the City.

C. City participation.

The City may, but shall have no obligation to, participate with the developer on items of construction which benefit existing or future development in addition to that being subdivided. The amount of financial responsibility of each party and the terms of discharging such responsibility may be provided for in a facilities agreement.

The construction of certain facilities required by the provisions of this ordinance may not be possible or practical at the time the developer prepares his plans for public improvements. Such deletion or delay of improvements may be specified in the facilities agreement, together with provisions for escrow deposits or future payment by the developer.



**SECTION 7 CONFLICT WITH OTHER ORDINANCES**

Whenever the standards and specifications in this ordinance conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern.

**COPY**

**SECTION 8 SAVING CLAUSE**

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions of this ordinance shall not be affected thereby, it being the intent of the City Council in adopting this ordinance that no portion thereof, or provision or regulation contained herein shall become inoperative or fail by reason of the unconstitutionality or invalidity of any section, subsection, sentence, clause, phrase, or provision of this ordinance.

**PASSED AND APPROVED** by unanimous vote of the City Council of the City of Pelican Bay, Texas, on this the 10<sup>th</sup> day of May, 2005.

*Marlyn Hawkins*  
Mayor

Attest:

*Nancy Noel*  
City Secretary

## APPENDIX A

### FEE SCHEDULE

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

These fees shall be charged on all plats, regardless of the action taken by the Planning and Zoning Commission and the City Council, and whether the plat is approved or denied.

The subdivider shall cause a check to be made payable to the City of Pelican Bay 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.

The City shall calculate the fees and charges, in accordance with the following schedule.

Preliminary Plats

\$100 flat fee and \$10 per lot.

Final Plats

\$100 flat fee and \$10 per lot.

Combination Preliminary and Final Plats

\$200 flat fee and \$10 per lot.

Multiple Dwelling, Commercial, or Industrial Areas

\$500 flat fee and \$10 per lot.

Modular Homes

\$100 flat fee and \$10 per lot.

Manufactured Home Subdivision

\$100 flat fee and \$10 per lot.

Manufactured Home Parks

\$100 flat fee and \$10 per lot.

Replat

\$100 flat fee and \$10 per lot.

# APPENDIX B

## SURVEYOR'S CERTIFICATE

That I, Joe R. Smith, Registered Professional Land Surveyor, do hereby certify that this plat was prepared from an actual and accurate survey of the land made on the ground 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 Pelican Bay, Texas.

\_\_\_\_\_  
Joe R. Smith  
Registered Professional Land Surveyor  
RPLS No. 0000

STATE OF TEXAS  
COUNTY OF TARRANT

Before me, \_\_\_\_\_, a Notary Public in and for Tarrant County, Texas, on this day personally appeared Joe R. Smith known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_.

\_\_\_\_\_  
Notary Public in and for Tarrant County, Texas

My commission expires: \_\_\_\_\_