

ORDINANCE

AN ORDINANCE OF THE CITY OF DESOTO, TEXAS, AMENDING AND CODIFYING ORDINANCE NO. 487, THE SUBDIVISION AND DEVELOPMENT ORDINANCE OF THE CITY OF DESOTO, TEXAS, AS HERETOFORE AMENDED, AS CHAPTER 9 OF THE CODE OF ORDINANCES; PROVIDING REGULATIONS GOVERNING PLATS AND SUBDIVISIONS OF LAND WITHIN THE CORPORATE LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY; PROVIDING DEFINITIONS; PROVIDING FOR PLAT APPROVAL; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Planning and Zoning Commission of the City of DeSoto and the governing body of the City of DeSoto in compliance with the laws of the State of Texas, and the ordinances of the City of DeSoto, have given requisite notice by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and in the exercise of its legislative discretion have concluded that the Subdivision and Development Ordinance should be amended.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESOTO, TEXAS:

SECTION 1. That Ordinance No. 487, the City of DeSoto Subdivision and Development Ordinance, as heretofore amended is hereby amended and codified as Chapter 9 of the Code of Ordinances to read as follows:

CHAPTER 9

SUBDIVISION AND DEVELOPMENT REGULATIONS

TABLE OF CONTENTS

<b>ARTICLE 9.100</b>	<b>GENERAL</b>	<b>3</b>
<b>Sec. 9.101</b>	TITLE	3
<b>Sec. 9.102</b>	AUTHORITY	3
<b>Sec. 9.103</b>	PURPOSE; PLAT REQUIRED	3
<b>Sec. 9.104</b>	APPLICABILITY	4
<b>Sec. 9.105</b>	DEFINITIONS	4
<b>Sec. 9.106</b>	APPEAL TO CITY COUNCIL	7
<b>Sec. 9.107</b>	FILING FEES	7
<b>Sec. 9.108</b>	WAIVERS	8
<b>Sec. 9.109</b>	PENALTY; ENFORCEMENT	8
<b>ARTICLE 9.200</b>	<b>PLATTING PROCEDURE</b>	<b>9</b>

**ORDINANCE NO. 1413-01**

<b>Sec. 9.201</b>	GENERAL	9
<b>Sec. 9.202</b>	SUBMISSION DATES	9
<b>Sec. 9.203</b>	OFFICIAL FILING DATE	9
<b>Sec. 9.204</b>	GENERAL APPROVAL CRITERIA	9
<b>Sec. 9.205</b>	DEDICATIONS	10
<b>Sec. 9.206</b>	OPTIONAL LAND STUDY	10
<b>Sec. 9.207</b>	PROCEDURE FOR PRELIMINARY PLAT	13
<b>Sec. 9.208</b>	EXTENSION AND RESTATEMENT OF EXPIRED PRELIMINARY PLATS	16
<b>Sec. 9.209</b>	STANDARDS FOR APPROVAL OF PRELIMINARY PLATS	16
<b>Sec. 9.210</b>	DATA REQUIREMENT FOR PRELIMINARY PLAT	17
<b>Sec. 9.211</b>	EFFECT OF PRELIMINARY PLAT APPROVAL	20
<b>Sec. 9.212</b>	AMENDMENTS TO OPTIONAL LAND STUDY OR PRELIMINARY PLAT	20
<b>Sec. 9.213</b>	PROCEDURE FOR FINAL PLAT	21
<b>Sec. 9.214</b>	STANDARDS FOR APPROVAL OF FINAL PLAT	22
<b>Sec. 9.215</b>	DATA REQUIREMENT FOR FINAL PLAT	22
<b>Sec. 9.216</b>	EXECUTION AND RECORDATION OF FINAL PLAT	23
<b>Sec. 9.217</b>	ADMINISTRATIVE APPROVAL OF CERTAIN AMENDING PLATS, MINOR PLATS AND REPLATS	24
<b>Sec. 9.218</b>	VACATING PLATS, REPLATS AND AMENDMENT OF PLATS	25
<b>Sec. 9.219</b>	EXPIRATION OF FINAL PLAT APPROVAL	27
<b>Sec. 9.220</b>	INDUSTRIAL PROPERTY	28
<b>ARTICLE 9.300</b>	<b>COMPLETION AND MAINTENANCE OF PUBLIC IMPROVEMENTS</b>	<b>28</b>
<b>Sec. 9.301</b>	CONSTRUCTION PLAN PROCEDURE	28
<b>Sec. 9.302</b>	IMPROVEMENT AGREEMENTS	29
<b>Sec. 9.303</b>	CONSTRUCTION PROCEDURES	31
<b>Sec. 9.304</b>	INSPECTION OF PUBLIC IMPROVEMENTS	32
<b>Sec. 9.305</b>	DEFERRAL OF REQUIRED IMPROVEMENTS	33
<b>Sec. 9.306</b>	ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY	33
<b>Sec. 9.307</b>	UTILITY CONNECTIONS	34
<b>Sec. 9.308</b>	WITHHOLDING IMPROVEMENTS	34
<b>ARTICLE 9.400</b>	<b>STANDARDS AND REQUIREMENTS</b>	<b>34</b>
<b>Sec. 9.401</b>	LOTS AND BLOCKS	34
<b>Sec. 9.402</b>	PARK SITES	35
<b>Sec. 9.403</b>	STREETS AND DRAINAGE	35
<b>Sec. 9.404</b>	WATER AND WASTEWATER EXTENSIONS	40
<b>Sec. 9.405</b>	PROVISION OF AMENITIES	41
<b>Sec. 9.406</b>	MANDATORY HOMEOWNERS' ASSOCIATION	42
<b>Sec. 9.407</b>	DESIGN STANDARDS	44
<b>Sec. 9.408</b>	PAYMENT OF FEES, CHARGES AND ASSESSMENTS	44

**ORDINANCE NO. 1413-01**

**ARTICLE 9.100      GENERAL**

**Sec. 9.101            TITLE**

This Chapter shall be known and may be cited as "The City of DeSoto Subdivision and Development Ordinance."

**Sec. 9.102            AUTHORITY**

This Chapter is adopted under the authority of the City Charter, the Constitution and Laws of the State of Texas, including Chapters 43, 212 and 242 of the Texas Local Government Code, as amended.

**Sec. 9.103            PURPOSE; PLAT REQUIRED**

1.     The purpose of this Ordinance is to: (i) provide for the orderly, safe and healthy development of the land within the City; (ii) protect and promote the health, safety, morals and general welfare of the City; (iii) guide the future growth and development of the City; (iv) provide for the proper location and width of streets and building lines; (v) provide adequate and efficient transportation, streets, storm drainage, water, wastewater, parks, and open space facilities; (vi) establish reasonable standards of design and procedures for platting to promote the orderly layout and use of land, and to insure proper legal descriptions and monumenting of platted land; (vii) insure that public infrastructure facilities required by City ordinances are available with sufficient capacity to serve the proposed development; (viii) require the cost of public infrastructure improvements that primarily benefit the tract of land being platted be borne by the owners of the tract.
  
2.     Every owner of any tract of land situated within the corporate limits of the City or within the extraterritorial jurisdiction of the City who divides the tract in two or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out a building lot, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts must have a Plat of the Subdivision prepared and approved according to this Chapter. A division of a tract under this Chapter includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executing contract, or by using any other method. A division of land does not include a division of land into parts greater than 5 acres, where each part has access and no public improvement is dedicated.
  
3.     The procedure for approving a Plat requires an Optional Land Study, Preliminary Plat and Final Plat. The Optional Land Study requires approval of the Planning and Zoning Commission. The requirement for an Optional Land Study may be omitted at the election of the Owner. Except as otherwise permitted, the approval of a Preliminary Plat by the Planning and Zoning Commission and City Council is required for the construction of public improvements on the property. The Preliminary Plat and the

## **ORDINANCE NO. 1413-01**

associated engineering plans for the property may be amended during construction, with only major changes requiring reapproval by the Planning & Zoning Commission. Upon completion of the required public improvements, or the provision of an Improvement Agreement, the Owner may submit a corrected Final Plat for the Subdivision. Lots may be sold and building permits obtained after approval of the Final Plat by the Planning & Zoning Commission, and the recording thereof.

### **Sec. 9.104                    APPLICABILITY**

This Chapter shall apply to all Subdivisions of land within the corporate limits of the City, and all land outside the corporate limits that the City Council may annex, and all land within the extraterritorial jurisdiction of the City to the full extent allowed by state law.

### **Sec. 9.105                    DEFINITIONS**

The following words and phrases when used in this Chapter shall have the meaning respectively ascribed to them in this section:

1.     Alley - a minor right-of-way, dedicated to public use, which affords only secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
2.     City - the City of DeSoto, Texas.
3.     City Council - the governing body of the City of DeSoto, Texas.
4.     City Engineer - the person, or company employed or appointed as the City Engineer by the City Manager.
5.     City Manager - the City Manager of the City of DeSoto, Texas.
6.     City Staff - the Planning and Zoning Manager, or designee and other officials of the City designated by the City Manager.
7.     Comprehensive Plan - the Comprehensive Plan of the City adopted by the City Council, as amended from time to time. The Comprehensive Plan indicates the general locations recommended for various land uses, transportation routes, streets, parks and other public and private developments and improvements.
8.     Comprehensive Zoning Ordinance - the City of DeSoto, Texas Comprehensive Zoning Ordinance, as amended.
9.     Design Standards - collectively mean the Drainage and Stormwater Pollution Prevention Design Manual, Paving Design Manual, and Water and Wastewater Design Manual.

## ORDINANCE NO. 1413-01

10. Development - the Subdivision of land and/or the construction or reconstruction of one (1) or more buildings or the structural alteration, relocation or enlargement of any buildings or structures on a tract, or tracts of land.
11. Developer - the Owner of property or the person authorized by the Owner to develop the property.
12. Drainage and Stormwater Pollution Prevention Design Manual - the City of DeSoto drainage standards adopted by ordinance from time-to-time.
13. Easement - one or more of the property rights granted by the Owner to and/or for the use by the public, or another person or entity.
14. Engineer - a person licensed as a professional engineer duly authorized under the provisions of the Texas Engineering Practice Act, as amended, to practice the profession of engineering.
15. Engineering Plans - the drawings and specifications prepared by a Registered Professional Engineer submitted to the City and required for Plat approval.
16. Extraterritorial Jurisdiction - the unincorporated area, that is contiguous to the corporate boundaries of the City, as determined by the Texas Local Government Code §42.001 *et seq.*
17. 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 within a specific time period following Final Plat approval in accordance with this Chapter.
18. Lot - an undivided tract or parcel of land under one ownership having frontage on a public street, and either occupied or intended to be occupied by one main building and the required parking, or a group of main buildings, and accessory buildings, which parcel of land is designated as a separate and distinct tract and building site.
19. Major Thoroughfare Plan – the thoroughfare plan adopted by ordinance and as amended from time-to-time.
20. May - the word “may” is permissive.
21. Optional Land Study - an optional detail drawing preparatory to the Preliminary Plat and Final Plat, to enable Owner to save time and expense in reaching general agreement with the Commission as to the form of the Plat and the objectives of these regulations.
22. Owner - fee simple title owner of the land comprising a Subdivision or the Owner’s authorized representative.

## **ORDINANCE NO. 1413-01**

23. Paving Design Manual - the City of DeSoto Paving Standards adopted by ordinance from time-to-time.
24. Plat - the graphic representation of a Subdivision, resubdivision, combination of lots or tracts, or recombination of lots or tracts. Plat includes, a replat, minor plat and amending plat.
25. Plat, Amending - a plat as described by the Texas Local Government Code §212.016, as amended.
26. Plat, Final - the final plat of a proposed Development submitted for approval by the Planning and Zoning Commission prepared in accordance with the provisions of this Chapter and requested to be filed with the County Clerk of Dallas County.
27. Plat, Minor - a Plat which contains four (4) or fewer lots fronting on an existing street and not requiring the creation of any new street or extension of municipal facilities as described by the Texas Local Government Code § 212.0065, as amended.
28. Plat, Preliminary - the initial plat or working draft map or plan of a proposed development submitted to the Planning and Zoning Commission and the City Council for approval.
29. Planning and Zoning Commission, or Commission - the Planning & Zoning Commission of the City of DeSoto, Texas.
30. Planning and Zoning Manager - the person appointed by the City Manager as the Planning and Zoning Manager of the City of DeSoto, Texas or designee.
31. Planned Development - a zoning district which accommodates planned associations of uses developed as integral land use units such as industrial districts, office, commercial or service centers, shopping centers, residential developments of multiple or mixed housing including attached single-family dwellings or an appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single Owner or a combination of Owners.
32. Shall - the word "shall" is always mandatory and nondiscretionary.
33. Storm Drainage Master Plan - the master plan for the City of DeSoto for storm drainage facilities adopted by ordinance from time-to-time.
34. Street - a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, private place, or however otherwise designated, other than an alley or driveway.
35. Structure - anything constructed or erected, the use of which requires location on the ground, or which is attached to something having a location on the ground.

## **ORDINANCE NO. 1413-01**

36. Subdivision - the division of any tract of land situated within the corporate limits, or within the City's extraterritorial jurisdiction, in two or more parts, or the identification of a single tract, for the purpose of laying out any Subdivision of any tract of land or any addition to the City, or for laying out suburban lots or building lots, or any lots, streets, alleys, squares, parks or other parts intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts for the purpose, whether immediate or future, of creating building sites. A division of a tract includes a division regardless of whether it is made by using 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. Subdivision includes resubdivision, but it does not include the division of land into parts greater than five (5) acres, where each part has access and no public improvement is dedicated.
37. Surveyor - a registered professional land surveyor, as authorized by state law to practice the profession of surveying as authorized by the Land Survey Practices Act, as amended.
38. Temporary Improvement - improvements built and maintained by an Owner during construction of the development of the Subdivision or addition and prior to the acceptance of the performance bond or improvements required for the short term use of the property.
39. Vicinity Location Map - a small vicinity location map which shows sufficient streets, collector and arterial street names, and major features of the surrounding area to locate the area being subdivided.
40. Water Master Plan - the master plan for the City of DeSoto for water facilities adopted by ordinance from time-to-time.
41. Wastewater Master Plan - the master plan for the City of DeSoto for wastewater facilities adopted by ordinance from time-to-time.
42. Water and Wastewater Design Manual - the City of DeSoto water and wastewater standards adopted by ordinance from time-to-time.

### **Sec. 9.106**                      **APPEAL TO CITY COUNCIL**

Except as otherwise provided herein, any Developer aggrieved by any finding or action of the Planning and Zoning Department, Development Services Department, or the Planning and Zoning Commission, may appeal to the City Council within thirty (30) days after the date of such finding or action and not thereafter.

### **Sec. 9.107**                      **FILING FEES**

1. Filing fees for Plats established by resolution of the City Council from time-to-time shall be paid by the Developer at time of application.

## **ORDINANCE NO. 1413-01**

2. Plat recordation fees which are charged by Dallas County shall be paid by the Developer to the Planning and Zoning Department at the time of application.

### **Sec. 9.108                    WAIVERS**

1. The standards and requirements of this Chapter may be modified by the Planning and Zoning Commission for a Subdivision zoned Planned Development containing several types of land uses which, in the judgment of the Planning and Zoning Commission, provides adequate public spaces and improvements for vehicular circulation, recreation, light, air and service needs of the tract when fully developed and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.
2. Where existing conditions require a modification of these standards and regulations because of a unique and unusual condition not applicable generally to other property, the Planning and Zoning Commission, may, subject to City Council approval, grant a waiver to these standards to permit equitable treatment of the land or tract in light of the condition.
3. In granting waivers and modifications, the Planning and Zoning Commission and City Council may require such conditions as will, in their judgment, secure substantially the purposes of these standards and requirements and maintain the spirit and intent of this ordinance.
4. The grant of a waiver shall not in any manner vary the provisions of the City of DeSoto, Texas, Comprehensive Zoning Ordinance.
5. A request for a waiver shall be submitted in writing by the Developer at the time the Preliminary Plat is filed.
6. A request for a waiver must be approved by the City Council at the time of Preliminary Plat approval.

### **Sec. 9.109                    PENALTY; ENFORCEMENT**

1. Any person, firm or corporation who shall violate any of the provisions of this Chapter or who shall fail to comply with any provision hereof within the corporate limits of the City shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not to exceed Two Thousand Dollars (\$2,000.00), and each day that such violation continues shall constitute a separate offense.
2. Any person, firm, or corporation who shall violate any of the provisions of this Chapter or who shall fail to comply with any provisions hereof within the corporate boundaries of the City or the extraterritorial jurisdiction of the City, shall be subject to any appropriate action or proceeding by the City to enjoin, correct, abate or restrain the violation of this Chapter including the recovery of damages and civil penalties.



**ORDINANCE NO. 1413-01**

**ARTICLE 9.200 PLATTING PROCEDURE**

**Sec. 9.201 GENERAL**

1. Before any land is platted, the Owner shall apply for and secure approval of the proposed Subdivision Plat in accordance with the following procedures, unless otherwise provided by these regulations. The procedure for approving a Plat typically requires three steps: Optional Land Study, Preliminary Plat, and Final Plat. Land Studies require approval by the Planning & Zoning Commission. The Optional Land Study requirement may be omitted at the election of the Owner.
2. Except as otherwise permitted, the approval of the Commission and City Council of a Preliminary Plat is required prior to the construction of public improvements on the property. The Preliminary Plat and the associated engineering plans for the property may be amended during construction, with only major changes requiring reapproval by the Planning & Zoning Commission.
3. Upon completion of the required public improvements, or the provision of an Improvement Agreement, the Owner may submit a corrected Final Plat for the Subdivision. Lots may be sold and building permits obtained after approval of the Final Plat by the Planning & Zoning Commission, and filing of the signed plat.

**Sec. 9.202 SUBMISSION DATES**

The Planning and Zoning Manager may establish official submission deadlines for the placement of Land Studies and Plats on the agenda of the Planning and Zoning Commission and the City Council for consideration. No Optional Land Study or Plat shall be considered by the Planning and Zoning Commission until it has been determined by the Planning and Zoning Department that the submittal is complete and in conformance with this Chapter.

**Sec. 9.203 OFFICIAL FILING DATE**

For purposes of this Chapter, the date the Planning and Zoning Department has determined that the: (i) the submittal is complete and in conformance with this Chapter; (ii) all required documents are submitted in a complete format; and (iii) all required fees have been paid, shall constitute the official filing date of the Plat, from which the statutory period requiring approval or disapproval of the Plat shall commence. The Planning and Zoning Commission and City Council may not table or postpone the consideration of the approval or disapproval of an Optional Land Study or Plat, but may request the applicant to withdraw. The applicant may withdraw an Optional Land Study or Plat from consideration by submitting a written request, and may resubmit the Optional Land Study or Plat with no additional fees if it is rescheduled within sixty (60) days of the date of withdrawal.

**Sec. 9.204 GENERAL APPROVAL CRITERIA**

## ORDINANCE NO. 1413-01

No Optional Land Study or Plat shall be approved unless the following standards have been met:

- A. The Optional Land Study or Plat conforms to applicable zoning, the Comprehensive Plan, the Capital Improvements Plan of the City, the Design Standards, the Major Thoroughfare Plan, the Master Park Plan of the City, and other regulations in this Chapter. If a zoning change is contemplated for the property, the zoning change must be completed before the approval of Preliminary Plat of the property. Any Plat reflecting a condition not in accordance with the zoning requirements shall not be approved until any available relief from the board of adjustment has been obtained;
- B. Adequate provision has been made for the dedication and installation of public improvements; and
- C. All required fees have been paid.

### **Sec. 9.205**                    DEDICATIONS

The Owner of the property to be platted must provide an easement or fee simple dedication of all property needed for the construction of streets, thoroughfares, alleys, sidewalks, storm drainage facilities, floodways, water mains, wastewater mains and other utilities, public parks, and any other property necessary to serve the Plat and to implement the requirements of this Chapter. Dedication shown on Plats are irrevocable offers to dedicate the property shown. Once the offer to dedicate is made, it may be accepted by an action by the City by acceptance of the improvements in the dedicated areas for the purpose intended, or by actual use by the City. No improvements may be accepted until they are constructed in accordance with this Chapter, and the Final Plat is filed for record. No dedication otherwise required by this Chapter may be imposed upon an Owner unless the property is being subdivided and the dedication related to the impact of the proposed Development is roughly proportional to the needs created by the proposed Development; and provides a benefit to the Development.

### **Sec. 9.206**                    OPTIONAL LAND STUDY

- 1. Purpose. The purpose of the Optional Land Study is to review and approve a general plan for the Development of property including the layout of streets, lots, open space sites for public facilities, and utilities.
- 2. Applicability. An Optional Land Study may be submitted, at the option of the Owner, prior to the submission of a Preliminary Plat.
- 3. Phasing of Development. The Commission may permit an Optional Land Study for a Plat to be done in phases as indicated on the Optional Land Study, provided each phase satisfies the requirements of this Chapter. In considering phasing of an Optional Land Study, the Commission may approve conditions deemed necessary to assure the orderly Development of the land, including but not limited to temporary street and alley extensions, temporary cul-de-sacs, and off-site utility extensions.

## ORDINANCE NO. 1413-01

4. Pre-Application Conference. Before preparing the Optional Land Study, the applicant shall schedule an appointment and meet with the City staff to discuss the procedures for approval of the Optional Land Study and the requirements as to general layout of streets and/or reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services.
5. Requirements. Prior to submission of a Preliminary Plat and after meeting with the City staff, the Owner may file an application for approval of an Optional Land Study with the Commission, which shall meet the following minimum requirements:
  - a. The application shall include all contiguous holdings of the Owner with an indication of the portion which is proposed to be developed or offered, sold or leased, accompanied by an affidavit of ownership, which includes an address and telephone number of an agent.
  - b. The Optional Land Study shall be drawn to scale of 1" = 100' or larger.
  - c. The lower right hand corner of the Optional Land Study shall contain a title block clearly showing the proposed name of the subdivision or addition, the name and address of the Owner, Engineer or Surveyor responsible for the design or survey, the scale of the drawing, the date the drawing was prepared, and the location of the tract according to the abstract and survey records of Dallas County, Texas.
  - d. The Optional Land Study shall clearly show the limits of the tract and scale distances. True north shall be clearly indicated and shall be to the top or left of the study.
  - e. The Optional Land Study shall show the names of adjacent subdivisions or additions or the name of record Owners or adjoining parcels of unplatted land.
  - f. The Optional Land Study shall contain the existing zoning on adjoining land, the location, width, and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights-of-way, and topography with existing drainage channels or creeks, and other important features such as tree groupings, vegetation, political subdivisions or corporate limits and school district boundaries.
  - g. The Optional Land Study shall show the layout, names and width of proposed streets, alleys and easements.
  - h. The Optional Land Study shall show a general arrangement of land uses including but not limited to park and school sites, municipal facilities, private open space, floodplains and drainage ways, phasing plan, and proposed non-residential and residential uses and densities.

## ORDINANCE NO. 1413-01

- i. The Optional Land Study shall show layout, numbers, and approximate dimensions of proposed lots and all building lines.
  - j. The Optional Land Study shall show the location of proposed screening walls and/or other forms of screening shall be clearly indicated.
  - k. The Optional Land Study shall show existing contours of the tract in intervals of two feet or less, referred to sea level datum.
  - l. The Optional Land Study shall show existing sewers, water mains, culverts, or other underground structures within the tract and immediately adjacent thereto with pipe sizes and locations indicated.
  - m. The Optional Land Study shall show proposed water, sanitary sewer and storm sewer pipelines with culverts, bridges, and other appurtenances or structures shown.
  - n. The Optional Land Study shall show storm water retention or detention basins as required.
  - o. The Optional Land Study shall show erosion mitigation of lots or roads next to creeks and drainage ways according to drainage and erosion guidelines from the Engineering Department.
6. Standards for Approval. No Optional Land Study shall be approved by the Commission for a Plat which is intended for development unless it conforms to the Comprehensive Plan, this Chapter and the development ordinances of the City.
7. Approval Procedure. The Commission shall act on the Optional Land Study within thirty (30) days after it is officially filed. After review of the Optional Land Study, the report and recommendations of the Planning and Zoning Manager, the Commission shall approve, conditionally approve or disapprove the Optional Land Study. One (1) copy of the Optional Land Study shall be returned to the Owner with the date of approval or disapproval and the reasons therefore accompanying the copy. The disapproval of an Optional Land Study shall not be appealable to the City Council.
8. Effect of Approval. Approval of the Optional Land Study by the Commission constitutes authorization by the City for the Owner to submit application for approval of a Preliminary Plat in accordance with the procedure for Preliminary Plats subject to compliance with any conditions attached to approval of the Optional Land Study.
9. Lapse of Optional Land Study Approval. The approval of any phase or phases of an Optional Land Study, which is intended for Development, shall automatically expire unless such phase or phases have been submitted and approved by the Commission as a Preliminary Plat within one (1) year of the date of approval of such Optional Land Study.

## ORDINANCE NO. 1413-01

### Sec. 9.207                      PROCEDURE FOR PRELIMINARY PLAT

1. Prior to the filing of a Preliminary Plat, the Developer shall meet with the City Staff. The purpose of the meeting is to familiarize the Developer with the City's development regulations and the relationship of the proposed Subdivision to the Comprehensive Plan. At such meeting, the general character of the Development, the zoning, utility service, street requirements and other pertinent factors related to the proposed Subdivision will be discussed.
2. Prior to submission of a Preliminary Plat, the Developer shall submit to the City construction and engineering plans for the public infrastructure improvements required for the proposed Subdivision unless the approval of an Improvement Agreement has been requested. If the City does not approve of the use of an Improvement Agreement, engineering and construction plans for the required public infrastructure must be submitted by the Developer and approved by the City Engineer prior to approval of the Preliminary Plat.
3. After the Pre-Application Conference and completion of engineering and construction plans for all public infrastructure improvements, the Developer shall file the required number of copies of the Preliminary Plat of the proposed subdivision with the Planning and Zoning Department, for submission to the Planning and Zoning Commission, and include the required filing fees and tax certificates showing all taxes have been paid on the property being platted.
4. The following notice shall be stamped on the face of each Preliminary Plat: "Preliminary Plat - for inspection purposes only, and in no way official or approved for record purposes."
5. Preliminary Plats shall be distributed by City Staff to City departments. The Owner shall be responsible for the distribution of copies of the Preliminary Plats to the agencies listed below. The City staff shall give the Owner and such agencies a specific date by which to return written responses. The Owner and the agencies listed below shall be provided an opportunity to attend a Developer/City Staff conference for the purpose of notifying the Developer of necessary corrections.
  - a. Independent School Districts affected by the Plat. (one copy)
  - b. City Utility Departments. (two copies)
  - c. Public Utility Companies and Franchise Utility Companies that serve or will provide service to the proposed Subdivision. (two copies)
  - d. Dallas County Commissioner and Dallas County Public Works Director if the Subdivision is outside the City limits. (one copy each).
6. The Planning and Zoning Department shall accumulate the comments of the City departments and agencies, and conduct a Developer/City staff conference to report the

## ORDINANCE NO. 1413-01

comments and requested corrections to the Developer. The Developer shall be allowed to make comment or make required corrections and submit the corrected Preliminary Plat to the Planning and Zoning Department for submission to the Planning and Zoning Commission. The corrected Preliminary Plat shall be submitted within thirty (30) days of the date the original Preliminary Plat was officially filed and prior to the meeting of the Planning and Zoning Commission at which such Preliminary Plat is scheduled for consideration. Upon timely receipt, the Planning and Zoning Manager shall submit the corrected Preliminary Plat to the Planning and Zoning Commission.

7. A written report shall be prepared by City Staff and submitted to the Planning and Zoning Commission stating the review comments of the Preliminary Plat noting any unresolved issues.
8. Following review of the Preliminary Plat and other materials submitted in conformity with this Chapter, the Planning and Zoning Commission shall act on a Preliminary Plat, within thirty (30) days after the date the Preliminary Plat is officially filed. The Planning and Zoning Commission may either; (i) approve the Preliminary Plat as presented; (ii) approve the Preliminary Plat with conditions; or (iii) disapprove the Preliminary Plat. If disapproved, the Planning and Zoning Commission upon written request, shall state the reasons for disapproval. A conditional approval shall be considered a disapproval until the conditions have been satisfied.
9. The actions of the Planning and Zoning Commission shall be noted on two (2) copies of the Preliminary Plat. One (1) copy shall be returned to the Developer and the other retained in the files of the Planning and Zoning Department.
10. The Planning and Zoning Commission shall, in its action on the Preliminary Plat, consider the physical arrangement of the Subdivision and determine the adequacy of the street and thoroughfare rights-of-way and alignment and the compliance of the streets and thoroughfares with the Major Thoroughfare Plan, the existing street pattern in the area and with any other applicable provisions of the Comprehensive Zoning Ordinance and Comprehensive Plan. The Planning and Zoning Commission, based on City staff recommendations, shall also ascertain that adequate easements for proposed or future utility service and surface drainage are provided, and that the lot sizes and area comply with the Comprehensive Zoning Ordinance and are adequate to comply with the minimum requirements for the type of sanitary sewage disposal proposed. All on-site sewage disposal systems shall meet the minimum standards required by the City Plumbing Code and the regulations of Dallas County and of the Texas Natural Resource Conservation Commission, or their successors.
11. After approval of a Preliminary Plat by the Planning and Zoning Commission, the Planning and Zoning Department shall forward the Preliminary Plat to the City Council for consideration at the next available City Council meeting.
12. The City Council shall act on the Preliminary Plat within thirty (30) days after the date the Preliminary Plat is approved by the Planning and Zoning Commission or is considered approved by the inaction of the Planning and Zoning Commission. A

## ORDINANCE NO. 1413-01

Preliminary Plat shall be considered approved by the City Council unless it is disapproved within that period.

13. Approval of a Preliminary Plat by the Planning and Zoning Commission and/or the City Council is not approval of the Final Plat but is an expression of approval of the layout shown subject to satisfaction of specified conditions. The Preliminary Plat serves as a guide in the preparation of a Final Plat.
14. Expiration of Preliminary Plat Approval. The approval of a Preliminary Plat expires twenty-four (24) months after the date of City Council approval unless a Final Plat is submitted and has received approval by the Planning and Zoning Commission for the property within such period, or the period is extended by the Planning and Zoning Commission upon written request of the Owner. If the time period is not extended, or a Final Plat is not submitted and approved by the Planning and Zoning Commission within the twenty-four (24) month period, the Preliminary Plat approval shall be null and void, and the Owner shall be required to submit a new plat for the property subject to the then existing zoning, subdivision and other regulations.
15. Phased Development. The Preliminary Plat shall indicate any phasing of the proposed Development with a heavy dashed line. Each phase shall be numbered sequentially and in the proposed order of development. The proposed utility, street and drainage layout for each phase shall be designed in such a manner that the phases can be developed in numerical sequence. Thereafter, plats of subsequent units of such Subdivision shall conform to the approved overall layout and phasing, unless a new Preliminary Plat is submitted. The Planning and Zoning Commission and City Council may impose such conditions upon the filing of the phases as deemed necessary to assure the orderly development of the City. Such conditions may include but are not limited to temporary street and alley extensions, temporary cul-de-sacs, turn arounds, and off-site utility extensions. Failure to indicate phasing of the proposed development in accordance with this section prohibits the approval of a Final Plat for such Subdivision in phases.
16. Effective Period of Preliminary Plat Approved for Phased Development. If a Final Plat has not been submitted and approved on at least one phase of the area covered by the Preliminary Plat within twenty-four (24) months after the date of Preliminary Plat approval, the Preliminary Plat shall expire and be declared null and void. If in the event that only a phase of the Preliminary Plat has been submitted for Final Plat approval, then the Preliminary Plat for those areas not final platted within two years of the date of Preliminary Plat approval shall expire and be declared null and void, unless an extension of time is granted by the Planning and Zoning Commission. Any phase of a Preliminary Plat not receiving Final Plat approval within the period of time set forth herein shall expire and be declared null and void, and the Owner shall be required to submit a new Preliminary Plat for approval which shall be subject to the then existing zoning, subdivision and other regulations, and the payment of any applicable fees.

## **ORDINANCE NO. 1413-01**

### **Sec. 9.208                    EXTENSION AND RESTATEMENT OF EXPIRED PRELIMINARY PLATS**

1.     Sixty (60) days prior to or following the lapse of approval for a Preliminary Plat, as provided in these regulations, the Owner may request the Commission to extend or reinstate the approval.
2.     In determining whether to grant such request, the Commission shall take into account the reasons for lapse, the ability of the Owner to comply with any conditions attached to the original approval and the extent to which newly adopted zoning and subdivision regulations shall apply to the Preliminary Plat. The Commission may extend or reinstate the Preliminary Plat, or deny the request, in which instance the Owner must submit a new Preliminary Plat application for approval.
3.     The Commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations such as are necessary to issue compliance with the original conditions of approval. The Commission may also specify a shorter time for lapse of the extended or reinstated Preliminary Plat than is applicable to original Preliminary Plat approval.

### **Sec. 9.209                    STANDARDS FOR APPROVAL OF PRELIMINARY PLATS**

No Preliminary Plat shall be approved unless the following standards have been met:

- a.     The engineering and construction plans for the required public infrastructure improvements have been submitted and approved by the City Engineer, unless the approval of an Improvement Agreement has been requested and approved;
- b.     Provisions for installation and dedication of public improvements has been made; and
- c.     The Preliminary Plat conforms to the applicable zoning and all other requirements of this Chapter.
- d.     A Tree Survey, which identifies all trees with a DBH ("diameter at breast height" measured at 4.5 feet above grade) of six inches (6") or larger, shall be submitted prior to submission of the engineering and construction plans. The Tree Survey shall include the species and caliper at DBH of each tree in a tabular form, with each tree identified by a number corresponding to a numbered tree on the tree survey site plan. The Tree Survey must denote which trees will be saved and which will be removed.

The Tree Survey must be reviewed and approved by the Planning and Zoning Commission prior to the Preliminary Plat being submitted and prior to staff approving the engineering and construction plans. The Commission shall act on the Tree Survey within thirty (30) days after it is officially filed. If the Commission does not approve the Tree Survey, that decision may be appealed to City



## **ORDINANCE NO. 1413-01**

Council for consideration at the next available City Council meeting, and the City Council shall act on the appealed Tree Survey within thirty (30) days after the date the Tree Survey was denied by the Commission. Inaction by the City Council within this period shall be considered as approval.

The Commission, or the Council upon appeal, shall approve the Tree Survey if it finds and determines that the developer has made a good faith effort to save as many trees, 6" caliper or greater at DBH, as possible, given the subdivision layout, lot size, and topography of the proposed development."  
(Amended February 4, 2003 Ordinance 1513-03)

As part of the Final Plat application, the developer must submit to the Planning Department a spreadsheet that summaries, for each lot, the number of trees that were to be saved per Tree Survey, as well as the number of trees to be saved that were lost during construction. The spreadsheet must denote the caliper inch and species of each tree saved, as well as for the trees to be saved, but lost during development. This will allow staff to verify how many replacement trees are needed for each lot at the building permit stage.

Then, prior to the Final Inspection in connection with a building permit, any tree(s) shown on the Tree Survey as being retained on the lot, and which is removed or lost during development of the lot or home, shall be replaced by the developer or builder by planting a tree or trees of equivalent caliper inches. The trees used as replacement trees must each have a caliper of at least one and one-half inches (1 1/2") and be container grown. Trees used as replacement trees must be from the large tree list found on the Approved Plant List in Appendix 4 of the Zoning Ordinance or approved by the Planning and Zoning Manager. The replacement tree(s) must be planted on the same lot where the tree(s) it is replacing was, provided that the Planning and Zoning Manager may approve placement of the tree(s) on another lot(s) in the subdivision, if he finds it to be in the public interest. "

### **Sec. 9.210 DATA REQUIREMENT FOR PRELIMINARY PLAT**

The Owner shall submit the required number of copies of the Preliminary Plat and 8½" x 11" reduction copies of the Preliminary Plat, as determined by the Planning and Zoning Department, to allow for the distribution of the proposed Preliminary Plat for review. Each copy of the Preliminary Plat shall be folded so that the title block for the subdivision may be read in the lower right-hand corner. The Preliminary Plat shall be drawn to a scale of one inch equals one hundred feet (1" = 100') or larger on 24" X 36" sheet size. In cases of large developments which would exceed the dimensions of the required sheet at the 100 foot scale, Preliminary Plats may be submitted at a scale of one inch equals two hundred feet (1" = 200') on multiple sheets, properly registered.

The Preliminary Plat shall contain or be accompanied by the following:

## **ORDINANCE NO. 1413-01**

1. The required number of copies of the Preliminary Plat and the approved engineering and construction plans for all public infrastructure improvements in accordance with the Design Standards of the City, to include all streets, water mains and services, sewer system and services, and drainage systems required to develop the proposed Subdivision.
2. The name, address and telephone number of the Owner, the Surveyor, and Engineer responsible for the preparation of the Final Plat.
3. The name of the Subdivision, Vicinity Location Map showing adjacent subdivisions, street names (which shall conform whenever possible, to existing street names) and lot and blocks numbers in accordance with a systematic arrangement.
4. An accurate boundary survey description of the property, with bearings and distances, referenced to survey lines, existing property descriptions and established subdivisions, and showing the lines of adjacent tracts, the layout, dimensions and names of adjacent streets and alleys and lot lines shown in dashed lines.
5. Scale, north point, date, lot and block numbers.
6. The name and location of adjacent subdivisions or unplatted tracts drawn to scale shown in dotted lines and in sufficient detail to accurately show the existing streets, alleys and other features that may influence the layout and development of the proposed subdivision. The abstract name and number, and name of the Owner of the adjacent unplatted tracts shall be shown.
7. Exact location of 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, internal angles, points of curvatures, length and bearings of the tangents, and with all other surveyor information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points. All lots on building sites shall conform to the minimum standards for area, width and depth prescribed by the zoning district or districts in which the Subdivision is located, and state the area size of each lot.
8. Building setback lines and the location of utility easements.
9. Topographic information showing contour lines with intervals up to one (1') foot indicating the terrain, the drainage pattern of the area, and the drainage basin areas within the proposed Subdivision. Topographic information showing contour lines with intervals up to two (2) feet indicating the terrain, the drainage pattern of the area, and the drainage basin areas outside the boundaries of the proposed Subdivision.
10. The layout and dimensions of proposed storm drainage areas, easements and rights-of-way necessary for drainage within and outside the boundaries of the proposed Subdivision.

## **ORDINANCE NO. 1413-01**

11. The location and purpose of all proposed parks or other areas offered for dedication to public use; and written approval of the proposed parkland dedication by the City of DeSoto Park Development Corporation.
12. The location of all existing property lines, buildings, sewer or water mains, storm drainage areas, water and wastewater facilities, fire hydrants, gas mains or other underground structures, easements of record or other existing features.
13. The location, size and identification of any physical features of the property, including water courses, ravines, bridges, culverts, existing structures, drainage or other significant topographic features located on the property or within one hundred fifty feet (150') of the proposed Subdivision.
14. Copy of any deed restrictions, restrictive covenants, special use permit or Planned Development District ordinance regulating the property.
15. The angle of intersection of the centerlines of all intersecting streets which are intended to be less than ninety (90°) degrees.
16. In accordance with the City "Floodplain Management Regulations", Article 3.1200 of the Code of Ordinances, as amended, the floodplain and floodway lines and Base Flood Elevations as shown on the current effective Flood Insurance Rate Maps for the City shall be shown, where applicable. A notation shall be shown on the face of the Preliminary Plat stating: "Lots or portions of lots within the floodplain or areas of special flood hazard require a development permit prior to issuance of a building permit or commencement of construction including site grading, on all or part of those lots."
17. For a Preliminary Plat of land located outside the City limits where sanitary sewer does not exist or where street improvement standards vary from those specified by the City, such differences shall be noted.
18. A certificate of ownership and dedication of all streets, alleys, easements, parks and other land intended for public use, signed and acknowledged before a Notary Public by the Owner and lienholders of the property, along with complete and accurate metes and bounds description of the land subdivided and the property dedicated to public use.
19. Receipt showing all taxes on the subject property are paid.
20. Certification by a Surveyor, to the effect that the Preliminary Plat represents a survey made by the Surveyor, and that all the necessary survey monuments are correctly shown thereon.
21. A Preliminary Plat, provided in multiple sheets shall include a key map showing the entire Subdivision at smaller scale with lot and block numbers and street names on one (1) of the sheets or on a separate sheet of the same size.

**ORDINANCE NO. 1413-01**

22. Copy of any proposed property owner or homeowners' association agreements, covenants and restrictions.

**Sec. 9.211**                    **EFFECT OF PRELIMINARY PLAT APPROVAL**

1. Effect of Approval. Approval of a Preliminary Plat by the Commission and City Council constitutes authorization for the City Engineer to release construction plans and to permit the Owner to commence construction of the public improvements. Approval of a Preliminary Plat also authorizes the Owner, upon fulfillment of all requirements and conditions of approval, to submit a Final Plat for approval. Upon release of the construction plans, the City Engineer may, upon request of the applicant, issue a certificate indicating the construction plans have been released and construction of the improvement is thereafter authorized. The certificate shall read as follows:

“The Preliminary Plat for (insert name of the subdivision or addition) as approved by the City Council for the City of DeSoto on (insert date of approval) is authorized for use with engineering plans for the construction of public improvements as approved by the City Engineer. A Final Plat shall be approved by the Planning & Zoning Commission upon the completion of all public improvements or the provision of an Improvement Agreement under the terms of the Subdivision and Development Ordinance and submission of a Final Plat in compliance with the Subdivision and Development Ordinance of the City of DeSoto.”

**Sec. 9.212**                    **AMENDMENTS TO OPTIONAL LAND STUDY OR PRELIMINARY PLAT**

1. At any time following the approval of an Optional Land Study or Preliminary Plat, and before the lapse of such approval, the Owner may request an amendment. No amendment may be approved pursuant to this Section (9.212) which amends or changes any condition, regulation, or development required by a Planned Development Ordinance or Specific Use Permit which governs the development of such Subdivision. The rerouting of streets, addition or deletion of alleys, or addition or deletion of more than ten percent (10%) of the approved number of lots shall be considered a major amendment. The adjustment of street and alley alignments, lengths, and paving details; the addition or deletion of lots within ten percent (10%) of the approved number and the adjustment of lot lines shall be considered minor amendments.
2. The Planning and Zoning Manager may approve or disapprove a minor amendment. Disapproval may be appealed to the Commission. Major amendments may be approved by the Commission at a public meeting in accordance with the same requirements for the approval of an Optional Land Study or Preliminary Plat.
3. Approval. The Commission shall approve, conditionally approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of Preliminary Plat approval reasonably related to the proposed amendment.
4. Retaining Previous Approval. If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the Commission, the applicant

## ORDINANCE NO. 1413-01

may withdraw the proposed major amendment or appeal the action of the Commission to the City Council in accordance with Section 9.106.

### **Sec. 9.213**                   PROCEDURE FOR FINAL PLAT

1. After approval of the Preliminary Plat by the Planning and Zoning Commission and the City Council and upon completion of the required public improvements or the provision of an Improvement Agreement as allowed herein, the Owner shall submit a Final Plat for the property for approval.
2. The Final Plat shall conform substantially to the approved Preliminary Plat and, if desired by the Developer, may cover only a phase of the approved Preliminary Plat; provided, however, such phase conforms to all the requirements of this Chapter and the approved Preliminary Plat indicated the phasing of such Development.
3. The Final Plat shall be distributed to the City departments and other agencies for review and comment in the same manner as a Preliminary Plat.
4. The Planning and Zoning Department shall accumulate the comments of the City departments and agencies and conduct a Developer/City Staff conference to report the comments and requested corrections to the Developer. The Developer shall make comment or make the required corrections and submit the corrected Final Plat to the Planning and Zoning Department for submission to the Planning and Zoning Commission. The corrected Final Plat shall be submitted within thirty (30) days of the date the original Final Plat was officially filed and prior to the meeting of the Planning and Zoning Commission at which the original Final Plat is scheduled for consideration.
5. The Final Plat shall be submitted to the Planning and Zoning Commission at the next available meeting with any appropriate comments and recommendations by the Planning and Zoning Department. The Planning and Zoning Commission shall act on the Final Plat within thirty (30) days after the official filing date. If no action is taken by the Planning and Zoning Commission within such period, the Final Plat shall be deemed approved. A certificate showing the filing date and failure to take action thereon within the thirty (30) day period shall, on request, be issued by the Planning and Zoning Commission, which shall be sufficient in lieu of a written endorsement of approval. The Planning and Zoning Commission shall be the final approval authority for Final Plats. The denial of approval of a Final Plat shall not be appealable to the City Council.
6. The Planning and Zoning Commission shall consider the Final Plat, including all proposals by the Owner with respect to the dedication of right-of-way for public use, the construction of utilities, streets, drainage and other improvements.
7. The approval of the Final Plat by the Planning and Zoning Commission shall authorize the Planning and Zoning Commission Chairperson to execute the certificate of approval on the Final Plat.

## **ORDINANCE NO. 1413-01**

8. The approved Final Plat shall then be filed of record in the Plat Records of Dallas County.
9. The Final Plat for any Subdivision located outside the City limits of the City shall be submitted to the Commissioner's Court of Dallas County for approval and the execution of any applicable agreements.
10. After action by the Commissioner's Court, the Final Plat shall be returned to the City for filing by the Planning and Zoning Department.
11. Final Plats disapproved by the Planning and Zoning Commission shall be returned to the Developer by the Planning and Zoning Department.
12. In the event a Final Plat is approved by the Planning and Zoning Commission for a Subdivision in phases, the Final Plat of each phase shall carry the same name throughout the entire Subdivision, but bear a distinguishing letter, number or subtitle. Lot and Block numbers shall run consecutively throughout the entire Subdivision, even though such Subdivision may be finally approved in phase.

### **Sec. 9.214                      STANDARDS FOR APPROVAL OF FINAL PLAT**

No Final Plat shall be approved unless the following standards have been met:

- a. The Final Plat substantially conforms to the Preliminary Plat;
- b. Required public improvements have been constructed and are ready to be accepted, and/or an Improvement Agreement has been approved by the City for the subsequent completion of the public improvements;
- c. The Final Plat conforms to the applicable zoning and all other requirements of this Chapter;
- d. Provisions have been made for adequate public facilities under the terms of this Chapter; and
- e. All required fees have been paid.

### **Sec. 9.215                      DATA REQUIREMENT FOR FINAL PLAT**

The Owner shall prepare a Final Plat in accordance with the conditions of approval for the Preliminary Plat drawn to a scale of one inch equals one hundred feet (1" = 100') on 24" x 36" sheet size. For large Developments, the Final Plat may be submitted on multiple sheets properly registered to match with the surrounding sheets and a small-scale key map showing all sheets of the Final Plat have been provided. The Owner shall submit the required number of "copies" of the Final Plat and 8½" x 11" reduction copies of the Final Plat as determined by the Planning and Zoning Department with three (3) copies of the approved construction plans for the public infrastructure improvements for the proposed Subdivision. Each copy of the Final

**ORDINANCE NO. 1413-01**

Plat shall be folded so that the title block for the Subdivision may be read in the lower right-hand corner. The Final Plat shall contain or be accompanied by the following:

1. Record drawings, construction plans including one set of mylars and a digital copy in DWG or DGN format, and two sets of bluelines, where applicable.
2. All information required for a Preliminary Plat.
3. The Improvement Agreement and security, if required, in a form satisfactory to the City Attorney and in an amount established by the City Council upon recommendation of the City Engineer and shall include a provision that the Owner shall comply with all the terms of the Final Plat approval as determined by the Commission.
4. Formal irrevocable offers of dedication to the public of all streets, alleys, utilities, easements and parks in a form approved by the City Attorney.
5. The following certificates shall be placed on the Final Plat in a manner that will allow them to be clearly visible on the Final Plat.

APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DESOTO, TEXAS, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
Chairperson, Planning and Zoning Commission

\_\_\_\_\_  
Zoning Secretary

6. An Owner may, at the discretion of the Commission, obtain approval of a phase of a Subdivision for which a Preliminary Plat was approved provided such phase meets all the requirements of this Chapter in the same manner as is required for a complete Subdivision.
7. If applicable, copy of agreements, covenants and restrictions establishing and creating the homeowners' association approved by the Commission based on recommendation of the City Attorney.

**Sec. 9.216 EXECUTION AND RECORDATION OF FINAL PLAT**

1. When an Improvement Agreement and security are required, the Chairperson of the Commission, shall endorse approval on the Final Plat after the Improvement Agreement and security have been approved by the City Attorney, and all the conditions pertaining to the Final Plat have been satisfied. A Final Plat for which an Improvement Agreement has been approved shall contain the following notation on the Final Plat:

"This Subdivision is subject to an Improvement Agreement pursuant to the City of DeSoto, Texas Subdivision and Development Ordinance. All

**ORDINANCE NO. 1413-01**

or some of the public infrastructure were not constructed and accepted by the City of DeSoto, Texas prior to approval of this Final Plat.”

2. When installation of public improvements is required prior to recordation of the Final Plat, the Chairperson of the Commission, shall endorse approval on the Final Plat after all conditions of approval have been satisfied and all public improvements are satisfactorily completed. There shall be written evidence that the required public improvements have been installed and have been completed 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 and have been accomplished.
3. City staff shall be responsible for filing the Final Plat with the County Clerk. Simultaneously with the filing of the Final Plat, the City Staff shall record such other agreements of dedication and legal documents as shall be required to be recorded by the Commission and the City Attorney. The Final Plat, bearing all required signatures, shall be recorded after final approval and within five working days of its receipt. One (1) copy of the recorded Final Plat, with street addresses assigned, will be forwarded to the Owner by the City Staff.
4. Approval of a Final Plat shall certify compliance with the regulations of the City of DeSoto pertaining to the Subdivision. An approved and signed Final Plat may be filed with the County as a record of the Subdivision and may be used to reference lots and interests in property thereon defined for the purpose of conveyance and development as allowed by these regulations.

**Sec. 9.217 ADMINISTRATIVE APPROVAL OF CERTAIN AMENDING PLATS, MINOR PLATS AND REPLATS**

1. The Planning and Zoning Manager is authorized to approve the following:
  - a. Amending plats described by Section 212.016 TEX. LOC. GOV'T CODE;
  - b. Minor plats or replats involving four or fewer lots fronting an existing street and not requiring the creation of any new street or extension of municipal facilities; and
  - c. A replat under Section 212.0145 TEX. LOC. GOV'T CODE that does not require the creation of any new street or the extension of municipal facilities.
2. The Planning and Zoning Manager may for any reason elect to present an amending plat, minor plat or replat meeting the requirements of (1) above to the Planning and Zoning Commission for approval.
3. Any amending plat, minor plat or replat meeting the requirements of (1) above which the Planning and Zoning Manager fails or refuses to approve shall be submitted to the Planning and Zoning Commission for approval.



**ORDINANCE NO. 1413-01**

**Sec. 9.218 VACATING PLATS, REPLATS AND AMENDMENT OF PLATS**

1. Vacating Plats.
  - a. The Owners of the tract covered by a Plat may vacate the Plat at any time before any lot in the Plat is sold. The Plat is vacated when a signed, acknowledged instrument declaring the Plat vacated is approved and recorded in the manner prescribed for the original Plat.
  - b. If lots have been sold, the Plat, or any part of the Plat may be vacated on the application of all the Owners of lots in the Plat with approval obtained in the manner prescribed for the original Plat.
  - c. The Planning and Zoning Commission shall disapprove any vacating instrument which abridges or destroys public rights in any of the public uses, improvements, streets or alleys.
  - d. Upon approval and recording with the County Clerk of Dallas County, the vacated Plat has no effect.
2. Replatting Without Vacating Preceding Plat.
  - a. A replat of a Subdivision or part of a Subdivision may be recorded and is controlled over the preceding Plat without vacation of that Plat if the replat: (1) is signed and acknowledged by only the Owners of the property being platted; (2) does not attempt to amend or remove any covenants or restrictions; and (3) and is approved, after a public hearing on the matter, by the Planning and Zoning Commission.
  - b. An application for a replat shall follow the same procedure required for Preliminary and Final Plats.
3. Additional Requirements for Certain Replats.
  - a. In addition to compliance with Section 9.218(2), a replat without vacation of the preceding Plat must conform to the requirements of this Section if:
    - (1) during the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
    - (2) Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.
  - b. Notice of the public hearing, as required in Section 9.218(2), shall be given before the fifteenth (15th) day before the date of the public hearing by: (1)

## ORDINANCE NO. 1413-01

publication in the official newspaper; and (2) by written notice, with a copy of TEX. LOC. GOV'T CODE Section 212.015(c) attached, forwarded to the Owners of lots that are in the original Subdivision and that are within two hundred (200') feet of the lots to be replatted, as indicated on the most recently approved City tax rolls or the case of a Subdivision within the extraterritorial jurisdiction, the most recently approved county tax roll of the property upon which the replat is requested.

- c. If the proposed replat requires a waiver and is protested in accordance with this Subsection, the proposed replat must receive, in order to be approved, the affirmative vote of at least three-fourths ( $\frac{3}{4}$ ) of the members present at the meeting of the Planning and Zoning Commission. For a legal protest, written instruments signed by owners of at least twenty (20%) percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred (200') feet from that area, but within the original Subdivision, must be filed with the Planning and Zoning Commission prior to the close of the public hearing.
  - d. In computing the percentage of land area under Subsection (c), the area of streets and alleys shall be included.
  - e. Compliance with Subsections (c) and (d) is not required for approval of a replat of part of a preceding Plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded Plat or in the legally recorded restrictions applicable to the Plat.
4. Plat Amendments and Corrections.
- a. The Planning and Zoning Commission may approve an amending Plat, which may be recorded and is controlled over the preceding Plat without vacation of that plat, if the amending Plat is signed by all the Owners and is solely for one or more of the following purposes:
    - (1) to correct an error in a course or distance shown on the preceding Plat;
    - (2) to add a course or distance that was omitted on the preceding Plat;
    - (3) to correct any error in the real property description shown on the preceding Plat;
    - (4) to indicate monuments set forth after death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
    - (5) to show the location or character of monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding Plat;

**ORDINANCE NO. 1413-01**

- (6) to correct any other type of scrivener or clerical error or omission previously approved by including 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 (2) adjacent lots if: (1) both lot owners join in the application for amending the plat; (2) neither lot is abolished; (3) the amendment does not attempt to remove recorded covenants or restrictions; and (4) the amendment does not have a material adverse effect on the property rights of the other owners in the Plat;
  - (8) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
  - (9) to relocate one or more lot lines between one or more adjacent lots if: the Owner(s) of all such lots join in the application for amending the Plat; the amendment does not attempt to remove recorded covenants or restrictions and does not increase the number of lots;
  - (10) to make necessary changes to the preceding Plat to create six (6) or fewer lots in the subdivision or part of the Subdivision if: (1) the changes do not affect applicable zoning and other regulations of the City; (2) the changes do not attempt to amend or remove any covenants or restrictions; (3) the area covered by the changes is located in an area that the Planning and Zoning Commission have approved, after a public hearing, as a residential improvement area; and
  - (11) to replat one or more lots fronting on an existing street if:
    - (A) the Owners of all those lots join in the application for amending the Plat;
    - (B) the amendment does not attempt to remove recorded covenants or restrictions;
    - (C) the amendment does not increase the number of lots; and
    - (D) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.
- b. Notice and a hearing and the approval of other lot owners are not required for the approval and issuance of an amending Plat.

**Sec. 9.219**                      **EXPIRATION OF FINAL PLAT APPROVAL**

- 1. If public improvements for a Subdivision have not been constructed and accepted by the City and the corresponding Final Plat for said Subdivision has not filed in the Dallas County plat records within two (2) years after the date of Final Plat approval by the Planning and Zoning Commission, said Final Plat shall be null and void and shall conclusively be deemed to be withdrawn without further action by the City. This

## ORDINANCE NO. 1413-01

provision shall not apply to Final Plats approved by the City prior to the effective date of this Section.

2. Final Plats approved prior to the effective date of this Section shall become null and void and shall be conclusively deemed to be withdrawn without further action by the City on May 11, 2004, if the public improvements for the Subdivision have not been constructed and accepted by the City and the corresponding Final Plat for said Subdivision filed in the Dallas County plat records.
3. An approved, unexpired Final Plat may be extended by the Planning and Zoning Commission upon written request, once for a period not to exceed twelve (12) months provided:
  - a. good cause is shown by the Developer; and
  - b. there has been no significant change in development conditions affecting the Subdivision; and
  - c. the Final Plat continues to comply with all applicable, regulations, standards and this Chapter.

### **Sec. 9.220** INDUSTRIAL PROPERTY

An industrial Subdivision shall be processed for approval in the same manner as a residential Subdivision, except that no individual lots need be drawn on such Plat. Only streets, blocks, drainage easements and minimum building lines need be shown.

## **ARTICLE 9.300** COMPLETION AND MAINTENANCE OF PUBLIC IMPROVEMENTS

### **Sec. 9.301** CONSTRUCTION PLAN PROCEDURE

1. General Application Requirement. Construction plans shall be prepared by or under the supervision of a professional engineer or architect registered in the State of Texas as required by state law governing such professions. Plans submitted for review by the City shall be dated and bear the responsible engineer's or architect's name, serial number and the designation of "engineer," "professional engineer" or "P.E." or "architect" and an appropriate stamp or statement near the engineer's or architect's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the City shall bear the seal and signature of the engineer or architect and the date signed on all sheets of the plans. Public works construction in streets, alleys or easements which will be maintained by the City shall be designed by a professional engineer registered in the State of Texas.
2. Construction Plan Review Procedure. Copies of the construction plans, and the required number of copies of the Preliminary Plat shall be submitted to the City Engineer for final approval. The plans shall contain all necessary information for construction of the project, including screening walls and other special features. All materials specified shall conform to the Standard Specifications and Standard Details of the City. Each sheet of the plans shall contain a title block including space for the notation of revisions.

## ORDINANCE NO. 1413-01

This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The City Engineer will release the plans for construction, after approval of the Preliminary Plat by the Commission and payment of all inspection fees. Upon such release, each Contractor shall maintain one set of plans, stamped with City release, at the project site at all times during construction.

3. Failure to Commence Construction. If Commencement of Construction has not occurred within one (1) year after approval of the plans, resubmittal of plans may be required by the City Engineer for meeting current standards and engineering requirements. For purposes of this section "Commencement of Construction" shall mean (i) issuance of construction permit(s); and (ii) grading of the land.

### Sec. 9.302 IMPROVEMENT AGREEMENTS

1. Completion of Improvements. Except as provided below, before the Final Plat is approved by the Commission or Planning and Zoning Manager, all applicants shall be required to complete, in accordance with the City's direction and to the satisfaction of the City Engineer, all street, sanitary, and other public improvements, including lot improvements on the individual residential lots of the subdivision as required in these regulations and specified in the Final Plat, and to dedicate those public improvements to the City. As used in this Section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.
2. Improvement Agreement.
  - a. Agreement. The City Council, considering the recommendation of the Commission, may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the Final Plat, and may permit the Owner to enter into an Improvement Agreement by which the Owner covenants to complete all required public improvements no later than two (2) years following the date on which the Final Plat is signed. The City Council may also require the Owner to complete and dedicate some required public improvements prior to approval of the Final Plat and to enter into an Improvement Agreement for completion of the remainder of the required improvements during such two-year period. The Improvement Agreement shall contain such other terms and conditions as are agreed to by the Owner and the City.
  - b. Improvement Agreement Required for Oversize Reimbursement. The City shall require an Improvement Agreement pertaining to any public improvement for which the Developer shall request reimbursement from the City for oversize costs.
  - c. Security. The Improvement Agreement shall require the Owner to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the City, a

## ORDINANCE NO. 1413-01

letter of credit, or other security acceptable to the City Attorney. Security shall be in an amount equal to one hundred percent (100%) of the City's estimated cost of completion of the required public improvements and lot improvements. In addition to all other security, for completion of those public improvements where the City participates in the cost, the Owner shall provide a performance bond from the contractor, with the City as a co-obligee. The issuer of any surety bond and letter of credit shall be subject to the approval of the City Attorney.

- d. Letter of Credit. If the Commission authorizes the Owner to post a letter of credit as security for its promises contained in the Improvement Agreement, the letter of credit shall:
    - (1) be irrevocable;
    - (2) be for a term sufficient to cover the completion, maintenance and warranty periods but in no event less than two (2) 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.
  - e. Letter of Credit Reductions. As portions of the public improvements are completed, the Developer may make application to the City Engineer to reduce the amount of the original letter of credit.
    - (1) the City Engineer, if satisfied that such portion of the improvements has been completed in accordance with City standards, may cause the amount of the letter of credit to be reduced by such amount deemed appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.
    - (2) upon the dedication of and acceptance by the City of all required public improvements, the city shall authorize a reduction in the security to 10% of the original amount of the security if the Owner is not in breach of the Improvement Agreement. The remaining security shall be security for the Owner's covenant to maintain the required public improvements and the warrant that the improvements are free from defect for two (2) years thereafter.
3. Temporary Improvements. The Owner shall build and pay for all costs of Temporary Improvements required by the Commission and shall maintain those Temporary Improvements for the period specified by the Commission. Prior to construction of any Temporary Improvement, the Owner shall file with the City a separate Improvement Agreement and escrow, or where authorized, a letter of credit, in an appropriate amount for such Temporary Improvements, which Improvement Agreement and escrow or letter of credit shall ensure that the Temporary Improvements will be properly constructed, maintained, and removed.

## ORDINANCE NO. 1413-01

4. Units of Government. Governmental units may file, in lieu of the contract and security, a certified resolution or ordinance agreeing to comply with the provisions of this Section.
5. Failure to Complete Improvements. For Plats for which no Improvement Agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the City, the Preliminary Plat approval shall be deemed to have expired. In those cases where an Improvement Agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may:
  - a. Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the Development at the time the Improvement Agreement is declared to be in default;
  - b. Suspend Final Plat approval until the public improvements are completed and record a document to that effect for the purpose of public notice;
  - c. Obtain funds under the security and complete or cause the public improvements to be completed;
  - d. Assign its right to receive funds under the security to any third party, including a subsequent Owner of the Subdivision for which public improvements were not constructed, in whole or in part, in exchange for that subsequent Owner's promise to complete the public improvements in the Subdivision; and
  - e. Exercise any other rights available under the law.
6. Acceptance of Dedication Offers. Acceptance of formal offers of dedication of street, public areas, easements, and parks shall be by authorization of the City Engineer. The approval by the Commission of a Plat, whether Preliminary or Final shall not in of itself be deemed to constitute or imply the acceptance by the City of any street, easement, or park shown on Plat. The Commission may require the Plat to be endorsed with appropriate notes to this effect.
7. Maintenance of Public Improvements. The Owner shall maintain all required public improvements for a period of two (2) years following the acceptance by the City and shall provide a warranty that all public improvements shall be free from defect for a period of two (2) years following such acceptance by the City.

### Sec. 9.303

### CONSTRUCTION PROCEDURES

1. Permit Required. A permit is required from the City prior to commencement of any Subdivision Development work in the City which affects erosion control, vegetation or tree removal, or a floodplain.

## ORDINANCE NO. 1413-01

2. Preconstruction Conference. The City Engineer may require that all contractors participating in the construction meet for a preconstruction conference to discuss the project prior to release of a permit.
3. Conditions Prior to Authorization. Prior to authorizing release of a construction permit, the City Engineer shall be satisfied that the following conditions have been met:
  - a. The Preliminary Plat shall be approved by the Commission.
  - b. All required contract documents shall be completed and filed with the City Engineer.
  - c. All necessary off-site easements or dedications required for City infrastructure and not shown on the Final Plat must be conveyed solely to the City, with proper signatures affixed. The original of the documents shall be returned to the Engineering Department prior to approval and release of the engineering plans and issuance of a permit.
  - d. All contractors participating in the construction shall be provided, at the Developer's cost, with a set of approved plans bearing the stamp of release of the Engineering Department. One set of these plans shall remain on the job site at all times.
  - e. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer at least twenty-four (24) hours prior to the preconstruction meeting which is optional.
  - f. All applicable fees must be paid to the City.

### **Sec. 9.304**                      INSPECTION OF PUBLIC IMPROVEMENTS

1. General Procedure. Construction inspection shall be supervised by the City Engineer. Construction shall be in accordance with the approved Plans and the Design Standards. 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's inspection finds that any of the required public improvements have not been constructed in accordance with the City's construction standards and specifications, the Owner shall be responsible for completing and/or correcting the public improvements.
2. Certificate of Satisfactory Completion. The City will not accept dedication of required public improvements until the applicant's engineer or surveyor has certified to the City Engineer, through submission of Record Drawings, indicating location, dimensions, materials, and other information required by the Commission or City Engineer, that all



## **ORDINANCE NO. 1413-01**

required public improvements have been completed. The Record Drawings shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer, or other public improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the Plat, and all changes made in the plans during construction and containing on each sheet a record drawing stamp bearing the signature of the Engineer and the date. The Engineer or Surveyor shall also furnish a copy of the Final Plat and engineering plans, if prepared on a Computer Assisted Design Drawings ("CADD") system, in such a format that is compatible with the City's CADD system. The Developer shall provide a maintenance bond executed by a corporate surety duly authorized to do business in the State of Texas, payable to the City and approved by the City as to form, to guarantee the maintenance of the construction for a period of two (2) years after its completion and acceptance by the City. In lieu of a maintenance bond the Developer may submit either an irrevocable letter of credit payable to the City and approved by the City as to form, or a cash bond payable to the City and approved as to form. The amount of the maintenance bond, letter of credit or cash bond shall be at least ten (10%) percent of the full cost of the infrastructure in the Subdivision, as determined by the estimate of construction costs. When such requirements have been met the City Engineer shall thereafter accept the public improvements.

3. 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.
4. 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.

### **Sec. 9.305                    DEFERRAL OF REQUIRED IMPROVEMENTS**

1. The Commission may, upon petition of the Owner, defer at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements are not required in the interests of the public health, safety and general welfare.
2. Whenever a petition to defer the construction of any public improvement required under these regulations is granted by the Commission, the Owner shall deposit in escrow the Developer's share of the costs of the future public improvements with the City prior to approval of the Final Plat, or the Owner may execute a separate Improvement Agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the City.

### **Sec. 9.306                    ISSUANCE OF BUILDING PERMITS AND CERTIFICATES OF OCCUPANCY**

1. No building permit shall be issued for a lot or building site unless the lot or site has been officially recorded by a Final Plat approved by the City of DeSoto, and all public improvements as required for Final Plat approval have been completed, except as permitted below.

**ORDINANCE NO. 1413-01**

- a. Building permits may be issued for non-residential and multi-family (apartments) development provided that a Preliminary Plat is approved by the City and civil construction plans have been released by the City Engineer. Building construction will not be allowed to surpass the construction of fire protection improvements.
  - b. The City Engineer may authorize residential building permits for a portion of a Subdivision, provided that a Preliminary Plat has been approved and all public improvements have been completed for that portion of the Development, including but not limited to those required for fire and emergency protection. Notwithstanding, no lot may be sold or title conveyed until a Final Plat approved by the City has been recorded.
2. No certificate of occupancy shall be issued for a building or the use of property unless all Subdivision improvements have been completed and a Final Plat approved by the City has been recorded. Notwithstanding the above, the City Building Official may authorize the occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the City for the completion of all remaining public improvements.

**Sec. 9.307 UTILITY CONNECTIONS**

Utility connections for individual lots are not authorized until a Final Plat has been approved in accordance with this Chapter.

**Sec. 9.308 WITHHOLDING IMPROVEMENTS**

The City shall withhold all City improvements of whatsoever nature, including the furnishing of water and sewer facilities and service, from any Subdivision which has not been constructed and approved in accordance with this Chapter.

**ARTICLE 9.400 STANDARDS AND REQUIREMENTS**

**Sec. 9.401 LOTS AND BLOCKS**

- 1. All lots of a Plat shall front on a dedicated public street, or an approved private street.
- 2. Lot dimensions shall comply with the standards required by the Comprehensive Zoning Ordinance.
- 3. The area of the lots shall be computed by taking the total area measured on a horizontal plane, included within the lot lines.
- 4. All sidelines of lots shall be at right angles to straight street lines or radial to curved street lines, unless a waiver from this rule would, in the opinion of the Planning and

**ORDINANCE NO. 1413-01**

Zoning Commission, produce a better lot plan and better utilize the proposed development.

- 5. Block lengths between intersecting cross streets shall be no more than one thousand six hundred (1,600') feet and no less than two hundred fifty (250') feet.

**Sec. 9.402 PARK SITES**

The Developer of any residential Subdivision shall be required to provide land for the Roy Orr Trail and for park purposes, or payment of cash in lieu of land as required by the Code of Ordinances.

**Sec. 9.403 STREETS AND DRAINAGE**

- 1. Streets

- a. All street widths in Subdivisions shall conform to the Major Thoroughfare Plan and shall be as follows:

<b>Street or Thoroughfare Type</b>	<b>ROW Width</b>	<b>Pavement Width (F-F)*</b>
Arterial	120-ft	33-ft (each direction)
Major Collector	70-ft	48-ft
Collector	60-ft	36-ft
Residential	50-ft	26-ft

(Amended July 5, 2005 Ordinance No. 1634-05)

\*Pavement widths are face of curb to face of curb.

- b. All necessary street rights-of-way shall be dedicated as part of the platting process and shall be dedicated to the City without cost.
- c. Existing streets shall be continued with the same or greater right-of-way and pavement widths as the existing streets being connected where practical, as determined by the Planning and Zoning Commission. Street names shall also be continued for extended streets.
- d. Dead-end streets may be platted where the land adjoining the proposed plat has not been developed and the opportunity exists for future extension of the proposed street and shall not exceed one hundred fifty (150') feet. In the event that such proposed street exceeds one hundred fifty (150') feet in length or one lot width, from the nearest street intersection, the street will be provided with an approved cul-de-sac, turn-around either permanent or temporary (defined as permanent quality and made of asphalt), having a minimum right-of-way radius of fifty (50') feet.

## ORDINANCE NO. 1413-01

- e. Where streets within the proposed Subdivision are dictated by lot design to be cul-de-sac, such cul-de-sac streets shall be provided with a permanent cul-de-sac having a minimum right-of-way radius of fifty (50') feet and shall not exceed six hundred (600') feet in length except in circumstances dictated by topography and existing development. Future streets that may offer a second point of access shall not be considered when measuring the length of cul-de-sac until the street is actually constructed. In situations where cul-de-sacs exceed the prescribed length by more than five (5%) percent, a combination of the following based on the number of lots and dwelling units will be considered as a mitigating measure:
- (1) a secondary emergency entrance/exit;
  - (2) widening of the street and enlarging the cul-de-sac turn-around;
  - (3) reduced density along the cul-de-sac, larger lots with fewer homes;
  - (4) addition of fire hydrants; and
  - (5) looped water system.
- f. Roadways shall be designed with regard for all topographical features lending themselves to treatment and layout of utilities.
- g. In platting the Subdivision, the Developer shall dedicate all the necessary right-of-way for the existing and proposed streets as shown on the proposed Plat in accordance with the Major Thoroughfare Plan or other plans approved by the City, at no cost to the City.
- h. All streets shall be constructed in the dedicated right-of-way as required by the Major Thoroughfare Plan. If a street as shown on the Major Thoroughfare Plan is located in the interior of the subdivision, the Developer shall construct the entire width of the roadway. Streets which dead-end at utility rights-of-way intended for future extension across these rights-of-way, shall be constructed to the center of the right-of-way as required by the Major Thoroughfare Plan for half the distance across the rights-of-way.
- Where streets are dedicated adjacent to undeveloped land and the property line is normally the centerline of the street, the Developer shall dedicate the necessary right-of-way.
- i. All new streets and median openings and left-turn lanes, constructed in existing streets to serve dedicated streets in a development, or to serve private drives, shall be paved to City standards, inspected by City inspectors and paid for by the Developers.
- j. Acceleration and deceleration lanes shall be constructed to the same standards as the adjoining streets, and cost of construction shall be the Developer's responsibility.

## ORDINANCE NO. 1413-01

- k. All handicap ramps shall be constructed by Developer in accordance with the Paving Design Manual prior to acceptance of the Subdivision.
- l. At a signalized intersection in which one public street terminates at the intersection of a connecting cross street, a private driveway shall not be placed on the cross street so as to be in alignment with the terminating street. However, an exception to this requirement may be considered when it is demonstrated that the location of the proposed drive, at the intersection, is the only acceptable access point due to spacing requirements and other design standards.  
(Added July 5, 2005 Ordinance No. 1634-05)
- m. A public cross access easement shall be required between adjacent lots fronting on an arterial street in order to minimize the number of access points and facilitate access between and across individual lots and any other location where existing lot widths are not sufficient to allow individual driveways per the City's driveway criteria. The location shall be approved by the City. Minimum easement width shall be twenty-four (24) feet and the length shall be the full width of the lot fronting the roadway. This standard is required and must be shown on all optional studies, preliminary plats and final plats."  
(Added July 5, 2005 Ordinance No. 1634-05)

### 2. Alleys

- a. All residential subdivisions shall be provided with concrete alleys at the rear of the lots unless a waiver is granted pursuant to this Chapter. Alleys shall be required in all new developments and replatting of existing subdivisions unless expressly waived because of drainage, topographical features, or other existing conditions which preclude the use of an alley in a particular location. The alleys shall be dedicated to the City as part of the Final Plat.
- b. In the event the Developer is prevented from providing rear alleys on a particular street due to topography or street layout, those lots which cannot provide alleys shall be restricted to side or rear entry garages. No residence garage opening may face the street.
- c. Alleys shall have a minimum right-of-way width of fifteen (15') feet and shall have a minimum pavement width of ten (10') feet constructed in accordance with the Paving Design Manual.

### 3. Sidewalks

- a. Concrete sidewalks are required for all streets, unless waived by the City Council at time of Preliminary Plat approval.
- b. Sidewalks located on residential streets shall be five (5') feet in width, located within the street right-of-way and constructed in accordance with the Paving Design Manual.

## ORDINANCE NO. 1413-01

- c. Sidewalks located adjacent to commercial property and all designated arterial or collector streets, as shown in the Major Thoroughfare Plan shall be six (6') feet in width within the street right-of-way and constructed in accordance with the Paving Design Manual.
  - d. Sidewalks adjacent to arterial or collector streets shall be constructed at the time the street is constructed. All other sidewalks shall be constructed at the time the residence or development is permitted.
4. Street Name Signs
- a. Street name signs and markers and traffic control signs, in accordance with the Uniform Manual for Traffic Control Devices, and the standards adopted by the City, shall be required at each intersection.
  - b. The cost of the street name sign, poles and installation shall be paid by the Developer prior to acceptance of the Subdivision. The City shall install the signs upon receipt of payment.
5. Storm Sewers - Residential Developments
- a. An adequate storm sewer system consisting of inlets, pipes, and/or excavated channels or natural creeks and other drainage structures shall be constructed with the Subdivision. The Developer shall bear the cost of all channel excavation, inlets, laterals, headwalls, manholes, junction structures, and all other items required to complete the system.
  - b. The Developer shall be responsible for all the costs of storm drainage systems where a pipe of seventy-two (72") inches in diameter, or less, is installed.
  - c. In cases where the storm drain is larger than seventy-two (72") inches, twenty-five percent (25%) of the cost of providing the additional pipe larger than seventy-two (72") inches may be borne by the City and reimbursed to the Developer, if a part of the Capital Improvement Plan for the City and if funds become available. In such event, the Developer shall be responsible for the remaining seventy-five percent (75%) and the cost of constructing the seventy-two (72") inch diameter pipe.
  - d. In general, underground drainage shall be constructed in streets, alleys and drainage easements. As an alternate, and upon approval by the City Engineer, the Developer may construct, excavate, or re-construct, at the Developer's expense, an open channel. The proposed channel shall be constructed in accordance with the Drainage and Stormwater Pollution Prevention Design Manual.

## ORDINANCE NO. 1413-01

- e. All channels shall be provided with dedicated drainage easements covering the floodway areas as defined by the Drainage and Stormwater Pollution Prevention Design Manual. All lots platted adjacent to the channel shall include the required drainage easement. Where possible, the property line division between lots shall be the center of the constructed channel.
  - f. If a Developer chooses to construct an open channel or maintain a channel in its existing condition, the following conditions shall be met:
    - (1) Creeks or excavated channels with side slopes of 4:1, or less, shall be maintained by the adjacent Owner(s); and
    - (2) Creeks or channels with greater slopes shall be maintained by the adjacent Owners through an organized entity, Owner association, public improvement district, condominium agreement, or other means. The City shall, through written agreement with the operating entity, have access for emergency purposes.
  - g. In street crossings over drainage systems with a cross section exceeding the dimension of an opening larger than that of a two (2) seventy-two (72") inch culvert pipe culvert, the City may participate in such crossings in an amount not to exceed twenty-five percent (25%) of the construction costs if a part of the Capital Improvement Plan and if funds become available.
6. Storm Sewers - Nonresidential Developments
- a. An adequate storm drainage system consisting of inlets, pipes, underground structures, and/or channels or creeks, shall be constructed by the Developer in accordance with the Drainage and Stormwater Pollution Prevention Design Manual.
  - b. The Developer shall pay the total cost of all underground systems which are constructed where a double seventy-two (72") inch diameter or smaller pipe will carry the runoff. The City may participate to the extent of ten percent (10%) of the difference between two seventy-two (72") inch pipes and any larger diameter pipes, and reimburse the Developer for such costs if a part of the Capital Improvement Plan and if funds become available.
  - c. In general, underground drainage shall be constructed in rights-of-way. As an alternate, if approved by the City Engineer, the Developer may construct, excavate, or re-construct at the Developer's expense, an open channel in accordance with the Drainage and Stormwater Pollution Prevention Design Manual.
  - d. In street crossings over drainage systems with a cross section exceeding the dimension of an opening larger than that of a two (2) seventy-two (72") inch culvert pipe culvert, the City may participate in such crossings in an amount not

## **ORDINANCE NO. 1413-01**

to exceed twenty-five percent (25%) of the construction costs if a part of the Capital Improvement Plan and if funds become available.

7. Lakes, detention ponds, and retention ponds may be constructed in all areas to be maintained by the Owner, subject to approval by the City Engineer. Dedication of an easement to the City is required to provide access for emergency purposes.
8. Other innovative drainage concepts will be considered, subject to review and approval by the City Engineer and City Council.

### **Sec. 9.404 WATER AND WASTEWATER EXTENSIONS**

1. Water and Sewer, General Provisions
  - a. All water and wastewater utilities shall be required to extend across the full width of the last lot platted on each street proposed within the Subdivision, in such an alignment that it can be extended to the next property in accordance with the Master Water and Sewer Plans for the City. Properties already served by water and sewer shall not be required to install additional facilities unless the current lines are not of adequate capacity to serve the proposed Development, in which case the Developer shall be required to install adequate facilities.
  - b. Every lot of the Plat shall have direct access to the water and sewer system. Utility service shall be from a water/wastewater main located in an abutting right-of-way or through easements from the lot to a water/sewer main.
2. Water
  - a. No water main shall be extended unless the diameter of any such extended main is a minimum of eight (8") inches in diameter. Larger mains may be required per the Water Master Plan.
  - b. The water system shall be looped. Dead-end mains, if permitted, shall not exceed six hundred (600') feet. Single feeds may be permitted with the approval of the City Engineer. Single feeds shall provide for looping in the future.
  - c. The spacing and location of all fire hydrants shall comply with the provisions of the Fire Code and the Water and Wastewater Design Manual adopted by the City.
  - d. The Developer will bear the total cost of on-site mains, with sizes to be determined by the City, except that the City may pay for the increment of cost of water and sewer mains over twelve inches (12") in diameter provided that such mains are required as a part of the Water Master Plan; and if a part of the Capital Improvement Plan for the City, and if funds become available. The increment of the cost borne by the City shall be determined on the basis of



## **ORDINANCE NO. 1413-01**

percentage difference between the twelve inch (12") water or sewer mains and the larger size required.

### **3. Wastewater**

- a. No wastewater main shall be extended unless the diameter of such extended main is a minimum of six (6") inches inside the Subdivision. Larger mains may be required per the Wastewater Master Plan. The City may participate in the cost of oversizing water mains, if a part of the Capital Improvement Plan for the City and if funds become available.
- b. In locations where wastewater service is not available, as determined by the City Engineer, an individual sewage disposal system of a type approved by the Building Official may be installed, in conformance with the Plumbing Code adopted by the City, as applicable, and the requirements of Dallas County and the Texas Natural Resources Conservation Commission.

### **Sec. 9.405 PROVISION OF AMENITIES**

1. When amenities are proposed as a part of a Subdivision and are owned and maintained by Owners in common or through an association of 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 the following:
  - a. Plans and illustration of the proposed amenities;
  - b. Cost estimates of construction, maintenance and operating expenses;
  - c. Association documents, deed restrictions, contracts and agreements pertaining to the amenities; and
  - d. Provision of surety as required for maintenance and other expenses related to the amenities.
2. The design of amenities shall conform to the City's guidelines for residential amenities as adopted by the City Council.
3. All amenities to be placed on land dedicated to the City, or involving the potential use of public funds for maintenance and/or operation shall require City Council approval prior to approval of the Preliminary Plat. The City Council may deny any such amenities at its sole discretion.
4. All such amenities must be completed and in place prior to acceptance of the public improvements and prior to final release of certificate of occupancy and occupying of residential structures.

## **ORDINANCE NO. 1413-01**

5. Any Subdivision creating an area or amenity to be owned in common by the Owners of lots within the Subdivision shall require the establishment of a mandatory Owners and/or homeowners' association prior to the approval of the Final Plat.

### **Sec. 9.406 MANDATORY HOMEOWNERS' ASSOCIATION**

1. **APPLICABILITY** – When a Subdivision contains streets, sewers, sewage treatment facilities, water supply systems, drainage systems or structures, parks, landscaping systems or features, irrigation systems, screening walls, living screens, buffering systems, subdivision entryway features (including monuments or other signage), or other physical facilities or grounds held in common that are not to be maintained by the City, the City may require the establishment and creation of a mandatory homeowners' association to assume and be responsible for the continuous and perpetual operation, maintenance and supervision of such facilities or grounds.
2. **RESPONSIBILITIES** – Such mandatory homeowners' associations shall be responsible for the continuous and perpetual operation, maintenance and/or supervision of landscape systems, features or element located in parkways, common areas, between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainage ways or drainage structures, or at subdivision entryways. Subdivision entryway treatments or features shall not be allowed unless a mandatory homeowners' association as required herein is established and created. The City shall be responsible for the repair of landscape systems, features or elements damaged by City initiated utility work in dedicated easements. Other damage occurring during utility repairs will be the responsibility of the appropriate utility company.
3. **PURPOSE** – A homeowners' association shall be established and created to assume and be responsible for the continuous and perpetual operation, maintenance and supervision of landscape systems, features or elements located in parkways, common areas between screening walls or living screens and adjacent curbs or street pavement edges, adjacent to drainage ways or drainage structures or at subdivision entryways, open space common areas or properties including but not limited to: landscape features and irrigation systems, Subdivision entryway features and monuments, private amenity center, playgrounds, pavilions, ponds, detention ponds, off-street parking for the private amenity center, swimming pool, exercise trail, private neighborhood park and related amenities.
4. **DEDICATIONS TO HOMEOWNERS' ASSOCIATION** – All open space and common properties or areas, facilities, structures, improvements systems, or other property that are to be operated, maintained and/or supervised by the homeowners' association shall be dedicated by easement or deeded in fee simple ownership interest to the homeowners' association after construction and installation as applicable by the Owner and shall be clearly identified on the record final plat of the property.
5. **APPROVAL** – A copy of the agreements, covenants and restrictions establishing and creating the homeowners' association must be approved by the Planning and Zoning Commission based on recommendation of City Attorney prior to the approval of the

**ORDINANCE NO. 1413-01**

Final Plat of the Subdivision and must be filed of record with said Final Plat in the Plat Records of the County. The Final Plat shall clearly identify all facilities, structures, improvements systems, areas or grounds that are to be operated, maintained and/or supervised by the homeowners' association.

6. CONTENTS OF HOMEOWNERS' ASSOCIATION AGREEMENTS – At a minimum, the agreements, covenants and restrictions establishing and creating the homeowners' association required herein shall contain and/or provide for the following:
- a. Definitions of terms contained therein;
  - b. Provisions acceptable to the City for the establishment and organization of the mandatory homeowners' association and the adoption of by-laws for said homeowners' association, including provisions requiring that the owner(s) of any lot or lots within the applicable subdivision and any successive purchase(s) shall automatically and mandatorily become a member of the homeowners' association;
  - c. The initial term of the agreement, covenants and restrictions establishing and creating the homeowners' association shall be for a twenty-five (25) year period and shall automatically renew for successive ten (10) year periods, and the homeowners' association may not be dissolved without the prior written consent of the City;
  - d. Provisions acceptable to the City to ensure the continuous and perpetual use, operation, maintenance and/or supervision of all facilities, structures, improvements, systems, open space or common areas that are the responsibility of the homeowners' association and to establish a reserve fund for such purposes;
  - e. Provisions prohibiting the amendment of any portion of the homeowners' association's agreements, covenants or restrictions pertaining to the use, operation, maintenance and/or supervision of any facilities, structures, improvements, systems, area or grounds that are the responsibility of the homeowners' association without the prior written consent of the City;
  - f. The right and ability of the City or its lawful agents, after due notice to the homeowners' association, to remove any landscape systems, features or elements that cease to be maintained by the homeowners' association; to perform the responsibilities of the homeowners' association and its board of directors if the homeowners' association fails to do so in compliance with any provisions of the agreements, covenants or restrictions of the homeowners' association or of any applicable City codes or regulations; to assess the homeowners' association for all costs incurred by the City in performing said responsibilities if the homeowners' association fails to do so; and/or to avail itself of any other enforcement actions available to the City pursuant to State law, City Codes or regulations; and

## ORDINANCE NO. 1413-01

- g. Provisions indemnifying and holding the City harmless from any and all costs, expenses, suits, demands, liabilities or damages including attorney's fees and costs of suit, incurred or resulting from the City's removal of any landscape systems, features or elements that cease to be maintained by the homeowners' association or from the City's performance of the aforementioned operation, maintenance or supervision responsibilities of the homeowners' association due to the homeowners' association's failure to perform said responsibilities.
7. NOTICE TO PURCHASERS- Builders are required to post notice in a prominent place in all model homes, sales offices and on all open space areas larger than 20,000 square feet stating that a property association has been established and membership is mandatory for all property owners. The notice shall state at a minimum that the builder shall provide any person upon their request the association documents and a five (5) year projection of dues, income and association expenses.
8. MAINTENANCE RESERVE FUND – Prior to the transfer of the control of the homeowners' association to the lot owners, the Developer must provide a reserve fund equivalent to two months' dues based on full homeowners' association membership.
9. PROPERTY ASSOCIATION ACTIVATION – Concurrent with the transfer of the homeowners' association, the Developer must transfer to the homeowners' association control over all utilities related to property and amenities to be owned by the homeowners' association. The Developer must also disclose to the homeowners' association the total cost to date related to the operation and maintenance of common property and amenities.

### **Sec. 9.407** DESIGN STANDARDS

The following design standards and specifications are incorporated by reference into this Chapter:

- a. City of DeSoto Drainage and Stormwater Pollution Prevention Design Manual, Paving Design Manual, and Water and Wastewater Design Manual adopted by ordinance from time-to-time.
- b. City of DeSoto Water Master Plan, Wastewater Master Plan and Storm Drainage Master Plan.

### **Sec. 9.408** PAYMENT OF FEES, CHARGES AND ASSESSMENTS

As a condition of Plat approval, the Developer shall pay all fees, charges, and assessments established by resolution or ordinance of the City Council, as may be imposed under this Chapter or other regulations of the City."

**SECTION 2.** That the City of DeSoto Paving, Drainage, Water and Wastewater Standards adopted before the effective date of this ordinance shall continue in full force and effect

**ORDINANCE NO. 1413-01**

and shall govern subdivisions and development under this ordinance until the City of DeSoto Drainage and Stormwater Pollution Prevention Design Manual, Paving Design Manual, and Water and Wastewater Design Manual are adopted by the City Council.

**SECTION 3.** Any plat, including a preliminary plat, final plat, minor plat, replat and amending plat filed with the City and accepted for filing by the City prior to the effective date of this ordinance shall be subject to, and governed by Ordinance No. 487, The Subdivision and Development Ordinance as heretofore amended which is continued in effect for such limited purpose. An application for approval of a preliminary plat, minor plat, amending plat or replat filed with the City after the effective date of this ordinance shall be subject to and governed by this ordinance.

**SECTION 4.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 5.** That all provisions of the ordinances of the City of DeSoto in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of DeSoto not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 6.** That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinance as a whole.

**SECTION 7.** That any person, firm or corporation violating any of the provisions or terms of this ordinance or the Code of Ordinances as amended hereby shall upon conviction be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

**SECTION 8.** This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such case provides; and,

**IT IS ACCORDINGLY SO ORDAINED.**

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DESOTO, TEXAS, THE \_\_\_\_ DAY OF \_\_\_\_\_, 2001.**

**APPROVED:**

\_\_\_\_\_  
Richard F. Rozier, Mayor

**ATTEST:**

**ORDINANCE NO. 1413-01**

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Anell Shipman, City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

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Peter G. Smith, City Attorney  
(PGS/ttl 12/13/07)(28750)

ORDINANCE

AN ORDINANCE OF THE CITY OF DESOTO, TEXAS, AMENDING AND CODIFYING ORDINANCE NO. 487, THE SUBDIVISION AND DEVELOPMENT ORDINANCE OF THE CITY OF DESOTO, TEXAS, AS HERETOFORE AMENDED, AS CHAPTER 9 OF THE CODE OF ORDINANCES; PROVIDING REGULATIONS GOVERNING PLATS AND SUBDIVISIONS OF LAND WITHIN THE CORPORATE LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY; PROVIDING DEFINITIONS; PROVIDING FOR PLAT APPROVAL; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF DESOTO, TEXAS, THE \_\_\_\_ DAY OF \_\_\_\_\_, 2001.

APPROVED:

\_\_\_\_\_  
Richard F. Rozier, Mayor

ATTEST:

\_\_\_\_\_  
Anell Shipman, City Secretary

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Peter G. Smith, City Attorney