

NICHOLS HILLS SUBDIVISION REGULATIONS  
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## ARTICLE I. IN GENERAL

### Sec. 1.1 Title.

The Ordinances embraced in these Subdivision Regulations will constitute and are designated the “Nichols Hills Subdivision Regulations” and may be so cited.

### Sec. 1.2 Purposes.

These Subdivision Regulations are intended to promote the public health, safety, morals, comfort, convenience, order, and general welfare; guide the future growth and development of the City; provide for adequate light, air, and privacy; secure safety from fire, flood, and other danger; prevent overcrowding of the land and undue concentration of population; protect the character and the social and economic stability of all parts of the City; and assure proper urban form and open space separation of developed areas.

### Sec. 1.3 Scope and jurisdiction.

- (a) *Uniform application.* The interpretation and application of these Subdivision Regulations must be applied to all areas within the corporate limits of the City. All Subdivision of land must conform to these Subdivision Regulations.
- (b) *Ambiguity.* If ambiguity arises concerning the content or application of these Subdivision Regulations, it is the duty of the Planning Commission and the City Council to ascertain all pertinent facts and set forth their findings and interpretation by formal Resolution.
- (c) *Effect on public lands.* All Property owned, leased, or operated by the City, or any other public or governmental body or agency, is subject to the terms of these Subdivision Regulations.

### Sec. 1.4 Policy.

- (a) The Subdivision of land and the subsequent development of the subdivided plat are subject to the City’s control for the orderly, planned, efficient, and economical development of the City.
- (b) It is unlawful for any person to lay out, subdivide, plat, or replat any land within the City except as provided in these Subdivision Regulations.
- (c) Land to be subdivided must be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other danger.

- (d) Land may not be subdivided until adequate Public Improvements exist and proper provision has been made for necessary streets, storm drainage, water, sewerage, capital improvements, and other improvements.
- (e) Building Permits and Certificates of Occupancy will not be issued for any Lot, Combined Lot, Tract, Building Site, or plat of land created by Subdivision after the effective date of these Subdivision Regulations that is not in conformity with these Subdivision Regulations.
- (f) These Subdivision Regulations are part of and compatible with the Code, including the Building Code, the Flood Damage Prevention Code, and the Zoning Code.

Sec. 1.5 Authority.

Regulation of and the attachment of reasonable conditions to the Subdivision of land is an exercise of police power delegated by the State of Oklahoma to the City pursuant to 11 O.S. § 45 101 et seq. Developers have the duty to comply with reasonable conditions set by the City for the betterment of the City as a place of residence and business.

**ARTICLE II. RULES OF CONSTRUCTION AND DEFINITIONS**

Sec. 2.1 Rules of construction.

In construing these Subdivision Regulations, the following rules of construction must be observed unless such construction would be inconsistent with the manifest intent of these Subdivision Regulations or with the context of the provisions, or the context clearly indicates otherwise.

- (a) *Interpretation as minimum requirements.* In interpreting and applying the provisions of these Subdivision Regulations, they will be held to be the minimum requirements for the promotion of the public health, safety, and general welfare, and they must be construed to achieve the purposes for which these Subdivision Regulations were enacted. Where any provision of these Subdivision Regulations imposes greater restrictions upon the subject matter than the general provision imposed by these Subdivision Regulations, the provision imposing the greater restriction or regulation will be deemed to be controlling.
- (b) *Liberal construction.* All provisions, terms, phrases, and expressions contained in these Subdivision Regulations must be liberally construed in order that the true purposes, intent, and meaning of the City Council may be fully carried out.
- (c) *Computation of time.* In computing any period of time prescribed or allowed, the day of the act, event, or default from which the designated period of time begins to run may not be included. The last day of the period so computed will be included, unless it is a Saturday, a Sunday, or a legal holiday as defined by state law, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. When the period of

time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays as defined by state law, or any other day when the City offices are closed will be excluded in the computation.

- (d) *Gender*. A word importing the masculine gender only will extend and be applied to females and to firms, partnerships, and corporations as well as to males.
- (e) *Including*. The use of the words “including,” “include,” “includes,” and “included” is intended to imply that the list or words following it are illustrative and not exclusive.
- (f) *May*. The term “may” is to be construed as being permissive.
- (g) *Must*. The term “must” is to be construed as being mandatory.
- (h) *Nontechnical and technical words*. All words and phrases must be construed and understood according to the common and approved usage of the language. Technical words and phrases and such others as may have acquired a peculiar or appropriate meaning in law must be construed and understood according to such peculiar or appropriate meaning.
- (i) *Number*. Any word importing the singular number includes the plural and any word importing the plural number includes the singular.
- (j) *Officers, departments, etc.* Whenever any officer, department, board, commission, or other agency is referred to by title alone, such reference must be construed as if followed by the words “of the City.”
- (k) *O.S. and statutory references*. The term “O.S.” means the Oklahoma Statutes, and such term or any other reference to the statutes of the State of Oklahoma means such statutes as now or hereafter amended, supplemented, or recodified.
- (l) *Section and Article references*. References to Section and Article numbers mean the Section or Article in these Subdivision Regulations unless specified otherwise.
- (m) *Shall*. The term “shall” is to be construed as being mandatory and indicating a duty.
- (n) *Tense*. Words used in the past or present tense include the future as well as the past and present, unless the context clearly indicates otherwise.
- (o) *Written, in writing*. The term “written” or “in writing” is to be construed to include any representations of words, letters, or figures, whether by printing or otherwise.

## Sec. 2.2 Definitions.

The following words, terms, and phrases, when used in these Subdivision Regulations, have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Defined terms are capitalized in these Subdivision Regulations.

*Affidavit* means a written statement of facts in recordable form, confirmed under oath by the person(s) making the statement, given before a notary public licensed in the State of Oklahoma or other person properly authorized to administer such oath.

*Alley* means a narrow passage or way, not intended for general traffic, located between or behind Buildings, that affords a secondary means of vehicular access to abutting Property.

*Building* means any Structure intended for the shelter, housing, or enclosure of persons, animals, or movable or transferrable personal property. When separated by dividing walls without openings, each portion of such Structure so separated will be deemed a separate Structure.

*Building Code* means Chapter 8 of the Code entitled *Buildings and Building Regulations*.

*Building Permit* means authorization issued by the City that is required by Section 50-188 of the Code whenever: (1) any Structure or Building is to be constructed, moved, or altered structurally; (2) a parking lot is to be constructed or have access points or loading/unloading spaces changed; or (3) a change in drainage is proposed.

*Building Setback Lines* means the required open space between the Property lines and the exterior of the Structure. Building Setback Lines are established by plat restrictions, private covenants, and Ordinances.

*Building Site* means the buildable area of a single Lot or Combined Lot of land, determined by Building Setback Lines, occupied or intended to be occupied by a Building or Structure.

*Certificate of Occupancy* means official certification, issued by the City, that permits the use of a Building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the Building in its several parts, together with any special stipulations or conditions of the applicable Building Permit.

*City* means the City of Nichols Hills, Oklahoma County, Oklahoma.

*Code* means the Nichols Hills City Code as designated in Section 1-1 of such Code.

*Combined Lot* means one Lot that is created by combining the entirety of two or more contiguous Lots, Building Sites, and/or Tracts, as provided in Article IV, Division 5.

*County* means Oklahoma County, Oklahoma.



*County Clerk* means the offices of the County Clerk of Oklahoma County, Oklahoma.

*Dedication* means the grant of easements, rights-of-way, Public Improvements, and Public Grounds by an Owner to the City for public use, granted as part of the Subdivision process and without compensation to the Owner from the City.

*Deed* means a legal document that conveys title to land.

*Deed Approval* means approval of a Deed as provided for in Article IV.

*Designee* following reference to an official of the City means the authorized agent, employee, or representative of such official.

*Developer* means the legal or beneficial Owner of land proposed to be subdivided or the Owner's representative who is responsible for any undertaking that requires review and approval under these Subdivision Regulations.

*Fee Schedule* means the official consolidated list of City fees and related charges adopted by the City Council from time to time and on file in the office of the City Clerk.

*Fence* means a Structure of wood, stone, ornamental iron or metal, brick, tile, or cement, connected together and designed for use in a fixed position, erected upon the ground for decorative or functional purposes.

*Flood Damage Prevention Code* means Chapter 20, Article II of the Code entitled *Flood Damage Prevention*.

*Guarantee* means one of the assurances provided to the City by the Developer to secure completion of Public Improvements as provided in Section 6.2.

*Laws* mean all applicable laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions, and requirements of and agreements with all federal, state, and local governments, agencies, and officials that now or at any time hereafter may be applicable to Property in the City or to any use or condition of Property in the City.

*Lot* means a measured plot of land having fixed boundaries and designated on a plat and of at least sufficient size to meet minimum use regulations and development standards as provided in the Zoning Code.

*Lot, Corner*, means a Lot where at least two adjacent sides abut intersecting Streets provided that the interior angle at the intersection of such two sides is less than 135 degrees.

*Lot, Double Frontage*, means a Lot having a frontage on two non-intersecting Streets, as distinguished from a Corner Lot.

*Lot Line Adjustment* means a minor revision to a Lot Line between two or more Lots or Building Sites where the land taken from one Lot or Building Site and added to an abutting Lot or Building Site does not exceed twenty percent (20%) of the gross area of the Lot or Building Site from which it is taken, as provided in Article IV, Division 2.

*Lot Line(s)* means the line(s) bordering a Lot.

*Lot Split* means the division of one platted Lot into two Lots, as provided in Article IV, Division 4.

*Ordinance* means a formal legislative act of the City Council that has the force and effect of a continuing regulation and a permanent rule of conduct or government for the City.

*Owner* means the legal owner of Property and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such Building or Property.

*Person* means any association, corporation, firm, partnership, body politic, or individual. Whenever used with respect to any penalty, the term “person,” as applied to partnerships or associations, means the partners or members of the partnership or association, and as applied to corporations, the officers of the corporation.

*Plat, Final* means the map of a Subdivision and accompanying material as described in these Subdivision Regulations. When approved by the City Council and endorsed by the Chairman of the Planning Commission and the Mayor or Vice-Mayor as provided in these Subdivision Regulations, the Final Plat means the map of a Subdivision and accompanying material as described in these Subdivision Regulations that conforms to the requirements of these Subdivision Regulations, that has been approved by the City Council and endorsed by the Chairman of the Planning Commission and the Mayor or Vice-Mayor and has been or is ready to be recorded in the records of the County Clerk.

*Plat, Preliminary* means the preliminary drawing(s) described in these Subdivision Regulations that is not to be recorded of record but that indicates the proposed manner or layout of a Subdivision of land to be submitted to the Planning Commission as required by these Subdivision Regulations.

*Plat, Sketch* means a sketch or informal plan prepared by a Developer prior to the preparation of a Preliminary Plat. The Sketch Plat describes the proposed design of a Subdivision for review during the pre-application review process.

*Property* includes personal, real, and mixed property.

*Property Lines* mean the boundaries of ownership of land as provided in the applicable legal description for that land.

*Public Grounds* means any park or open place adjacent to a park, any lake or stream, and any and every public ground, public square, public park, or other public place within the City.

*Public Improvements* mean improvements necessary for a Subdivision for which the City will ultimately assume the responsibility for maintenance and operation, including any Street, curb, gutter, Sidewalk, pedestrian way, drainage ditch, sewerage facility, catch basin, water main, streetlight, newly planted tree, off-Street parking area, Lot improvement, and the like.

*Resolution* means a special or temporary act of the City Council that is declaratory of the will or opinion of the City in a given matter and is in the nature of a ministerial or administrative act. A Resolution is not a Law and does not prescribe a permanent rule of conduct or government.

*Sidewalk* means any portion of the Street between the curb or the lateral line of the roadway and the adjacent Property Line intended for the use of pedestrians.

*Street* means any City-approved public or private thoroughfare that affords the principal means of access to adjoining Property. *Street* includes any highway, Alley, street, avenue, or public place, square, bridge, viaduct, underpass, overpass, tunnel, or causeway in the City dedicated or devoted to public use.

*Structure* means anything constructed or erected, the use of which requires location on the ground; or attached to something having a location on the ground, including but not necessarily limited to Buildings, swimming pools, spas, flagpoles, signs, antennas, and the like.

*Subdivision* means: (1) the division of land within the corporate limits of the City into two or more Lots or Building Sites, including the designation and dedication of Streets; and (2) Deed Approval for Lot Line Adjustments, Deed Approval for metes and bounds Tracts, Deed Approval for Lot Splits, and Deed Approval for Combined Lots, all as provided in these Subdivision Regulations.

*Subdivision Regulations* means these Nichols Hills Subdivision Regulations as designated in Section 1.1.

*Tract* means an unplatted piece of land.

*Zoning Code* means Chapter 50 of the Code entitled *Zoning*.

*Zoning District* means the section(s) of the City for which requirements governing the location and use of Buildings and premises are grouped.

## **ARTICLE III. PLATS AND PLAT APPROVAL**

### **DIVISION 1. GENERALLY**

#### **Sec. 3.1.1 Submittal and approval required.**

All plans, plats, or replats of land laid out in Lots or plats and the Streets, Alleys, or other portions of the same, intended to be dedicated to public or private use, within the corporate limits of the City must be submitted to the Planning Commission for investigation and report to the City Council with its recommendations. Before such plans, plats, or replats are entitled to record in the office of the County Clerk, they must be approved by the City Council and endorsed by the Chairman of the Planning Commission and the Mayor or Vice-Mayor as provided in these Subdivision Regulations.

#### **Sec. 3.1.2 Unapproved plats and certain Deeds not entitled to record.**

No plat, replat, or Subdivision of land within the jurisdiction of the City will be entitled to record unless it bears the written approval of the City Council and endorsement of the Chairman of the Planning Commission and the Mayor or Vice-Mayor as provided in Section 3.4.12. No Deed referring to an unapproved plat will be entitled to record, and, if recorded, will not import notice. No Lot Line Adjustment Deed, Deed describing lands by metes and bounds that conveys land within the jurisdiction of the City in a tract of five acres or less, Lot Split Deed, or Deed resulting in a Combined Lot will be entitled to record, unless it has been approved as provided in Article IV, and, if recorded without such approval, will not import notice. Expiration of the five-year limitation period provided by 16 O.S. § 27(a) will not grant a waiver of an unapproved plat, Deed, or Affidavit in lieu of a Deed to any of the restrictions or requirements of these Subdivision Regulations or the Code.

### **DIVISION 2. PRE-APPLICATION CONFERENCE AND SKETCH PLATS.**

#### **Sec. 3.2.1 Pre-application conference and Sketch Plat.**

Prior to the filing of a Preliminary Plat, the Developer may meet informally with the City Manager to discuss Subdivision application procedures and requirements, including requirements for Public Improvements. At such meeting, the City Manager, in his reasonable discretion, may require the Developer to submit a Sketch Plat for review prior to submission of an application for a Preliminary Plat.

#### **Sec. 3.2.2 Specifications for Sketch Plat.**

- (a) The Sketch Plat must be drawn at a scale of not less than one inch equal two hundred feet on one or more 24-inch by 36-inch sheet. If more than two sheets are required, match line sheets and an index sheet of the same dimensions or a map insert showing the entire Subdivision must be provided. The Sketch Plat and all supporting maps must be legible and

must show the map scale, north arrow, and the date of preparation. Preparation of the Sketch Plat by appropriate professionals licensed in the State of Oklahoma is recommended but not required.

(b) The Sketch Plat must include the following information:

- (1) The proposed name, if any, under which the proposed Subdivision is to be recorded.
- (2) The name, address, and contact information for the Developer, the Owner (if other than the Developer), and the person(s) who prepared the Sketch Plat.
- (3) A general location map and description accurately locating the proposed Subdivision, showing Property Lines, and generally identifying major arterial Streets bounding the section in which the proposed Subdivision is located.
- (4) The names, addresses, and contact information for the Owners of Property within the proposed Subdivision.
- (5) A description of any existing rights-of-way or easements affecting the proposed Subdivision.
- (6) The location of natural features within the proposed Subdivision and similar facts regarding existing conditions on immediately adjacent Property.
- (7) The location, width, and name of all existing Streets or other public ways within the proposed Subdivision or immediately adjacent to it.
- (8) Approximate topography at the same scale as the Sketch Plat.
- (9) The location and size of all existing Public Improvements within the proposed Subdivision or immediately adjacent to it.
- (10) The location and nature of utility rights-of-way, facilities, or Structures within the proposed Subdivision or immediately adjacent to it.
- (11) The approximate location, width, and classification of proposed Streets.
- (12) The approximate location and dimensions of proposed Public Improvements to be constructed within the Proposed Subdivision.

(c) The City Manager may require such additional information to be included in the Sketch Plat as he, in his reasonable discretion, deems necessary for review.

### DIVISION 3. PRELIMINARY PLATS.

#### Sec. 3.3.1 Specifications for Preliminary Plat.

- (a) The Developer shall prepare a Preliminary Plat that conforms to these Subdivision Regulations and other applicable provisions of the Code.
- (b) The Preliminary Plat must be prepared by appropriate professionals licensed in the State of Oklahoma. The Preliminary Plat must be drawn at a scale of not less than one inch equal two hundred feet on one or more 24-inch by 36-inch sheet. If more than two sheets are required, match line sheets and an index sheet of the same dimensions or a map insert showing the entire Subdivision must be provided. The Preliminary Plat and all supporting

maps must be legible and must show the map scale, north arrow, and the date of preparation.

- (c) The Preliminary Plat must include all information required to be provided pursuant to the then-current City's Checklist for Preliminary Plats, including the following information:
- (1) The name of the proposed Subdivision, if any.
  - (2) The name, address, and contact information for the Developer, the Owner (if other than the Developer), and the person(s) who prepared the Preliminary Plat.
  - (3) The boundary lines, bearings, and distances sufficient to locate the exact area proposed for Subdivision, identifying major arterial Streets bounding the section in which the Property is located and referencing at least one Subdivision corner to a known reference point that can be identified.
  - (4) The names, addresses, and contact information for the Owners of Property within the proposed Subdivision.
  - (5) A designation of the proposed Zoning District classification within the Subdivision and any zoning amendments, if any, proposed to be requested.
  - (6) The legal descriptions of land abutting the proposed Subdivision.
  - (7) A description of all existing Property Lines, rights-of-way or easements, Streets, Buildings, sewerage facilities, water mains, culverts, other drainage facilities, and other existing features within or affecting the Property to be subdivided, including existing features on immediately adjacent land at least 100 feet in all directions.
  - (8) A topographic map showing existing contours with intervals not to exceed one foot.
  - (9) The location, rights-of-way, paving width, and Street names of proposed Streets; the location and dimension of all proposed Lots; the location and dimension of all proposed water distribution, sewerage, and storm water management and control facilities; the location and width of all proposed Sidewalks; the approximate location, dimension, and area of any land proposed to be set aside as Public Grounds; and the centerline(s) of entrances to the Subdivision measured from the section corner.
- (d) The Preliminary Plat must include or be accompanied by the following information:
- (1) A report certified by the Oklahoma County Assessor stating the names, addresses, and contact information for the Owners of Property within a 300-foot radius of the exterior boundary of the proposed Subdivision.
  - (2) Statistical information including number of acres; number of Lots; number and type of residences; number of Lots and acreage allocated to commercial use; lineal feet of proposed Streets; and acreage allocated to Public Grounds.
  - (3) Draft of any private plat restrictions and covenants whereby the Developer proposes to regulate land use or development standards in the proposed Subdivision.
  - (4) Engineering designs showing proposed Street, water distribution, and sanitary sewer layout and design.
  - (5) Proposed method of handling storm water within and through the proposed Subdivision.
  - (6) Proposed supplemental movement systems showing the layout and dimensions of walkways, Sidewalks, trails, and other related improvements.

- (e) The City Manager may require such additional information to be included in the Preliminary Plat as he, in his reasonable discretion, deems necessary for review.

#### Sec. 3.3.2 Application for and submission of Preliminary Plat.

- (a) The City Manager shall provide an application form for Preliminary Plat approval to be completed by the Developer. The Developer shall submit 12 copies of the application and the Preliminary Plat for filing with the City Manager. The Developer shall also submit a digital copy of the Preliminary Plat.
- (b) The Preliminary Plat will be considered officially submitted and filed only after it is examined by City Manager and found to be in compliance with Section 3.3.1. The City Manager will inscribe on the Preliminary Plat the following notice: "Preliminary Plat-For inspection purposes only."

#### Sec. 3.3.3 Application fee.

A nonrefundable fee in the amount established in the City Fee Schedule must be paid to the City by the Developer with submission of the application for approval of the Preliminary Plat.

#### Sec. 3.3.4 Preliminary Plat review by City Manager.

All Preliminary Plat applications will be initially reviewed by the City Manager. Further, the City Manager will transmit the application and the Preliminary Plat to applicable municipal departments as deemed reasonably necessary for proper review of the proposed Subdivision. The City Manager shall forward his recommendation and any comments from other municipal departments regarding the proposed Subdivision and required Public Improvements to the Planning Commission when the application is sufficiently complete for Planning Commission and City Council review.

#### Sec. 3.3.5 Planning Commission and City Council public hearings; notice of hearings.

The Planning Commission and the City Council shall each hold public hearings regarding the Preliminary Plat as provided in this Division. The City shall arrange for notice of the hearings to be given by publication in a newspaper of general circulation in the City and by mailing written notice to the Developer and the Owner (if other than the Developer) by registered or certified mail not less than ten calendar days before the date of the Planning Commission's hearing. The City shall also mail notices at the same time by registered or certified mail to the Owners of Property within a 300-foot radius of the exterior boundary of the proposed Subdivision as their names and addresses appear in the report provided by the Developer pursuant to Section 3.3.1(d)(1). The notice of the public hearings must contain the date, time, and location of each hearing; a description of the Preliminary Plat application for the proposed Subdivision; and the legal description of the proposed Subdivision.

#### Sec. 3.3.6 Planning Commission public hearing and recommendation to City Council.

- (a) The Planning Commission shall hold its public hearing regarding the Preliminary Plat at its next regularly scheduled meeting (or a special meeting at the Planning Commission's sole discretion) following receipt of the City Manager's recommendation, subject to the Planning Commission's right to continue such hearing. The Planning Commission shall thereafter review the application and the Preliminary Plat, the City Manager's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The Planning Commission shall provide a recommendation to the City Council, recommending approval, conditional approval, or disapproval of the Preliminary Plat within 90 calendar days from the date of the public hearing. The recommendation may include comments relative to the proposed Subdivision's compliance with these Subdivision Regulations and other applicable provisions of the Code. The recommendation may also include comments from other municipal departments regarding the proposed Subdivision and required Public Improvements. If the Planning Commission recommends disapproval of the Preliminary Plat, the grounds for such disapproval will be stated in their recommendation.
- (b) If the Planning Commission fails to make its recommendation within the 90 calendar day period, it will be deemed to have recommended approval of the Preliminary Plat to the City Council. However, the Developer may waive this requirement and consent to an extension of such period.
- (c) During the 90-day review period, the City Manager or his Designee may meet with the Developer to discuss and negotiate any proposed changes to the Preliminary Plat deemed advisable by the City Manager and the Planning Commission and the kind and extent of Public Improvements that would be required to be made by the Developer.

#### Sec. 3.3.7 City Council public hearing and Preliminary Plat approval or disapproval.

The City Council shall hold its public hearing regarding the Preliminary Plat at its next regularly scheduled meeting (or a special meeting at the City Council's sole discretion) following receipt of the Planning Commission's recommendation, subject to the City Council's right to continue such hearing. The City Council shall thereafter review the application and the Preliminary Plat, the Planning Commission's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The City Council shall approve, conditionally approve, or disapprove the Preliminary Plat within 90 calendar days from the date of the public hearing. The City Council has absolute discretion to override the recommendation of the Planning Commission in approving, conditionally approving, or disapproving the Preliminary Plat. If the City Council recommends disapproval of the Preliminary Plat, the grounds for such disapproval must be stated in its decision. If the City Council conditionally approves the Preliminary Plat, the conditions that must be satisfied for full approval must be stated in its decision. The action of the City Council will be noted on two copies of the



Preliminary Plat. One copy will be returned to the Developer, and one copy will be retained by the City Clerk. If the City Council approves or conditionally approves the Preliminary Plat, the Developer shall prepare a Final Plat as provided in Section 3.4.1.

#### Sec. 3.3.8 Period of Preliminary Plat approval.

The City Council's approval or conditional approval of the Preliminary Plat will be valid for a period of 12 calendar months from the date of approval or conditional approval. Approval of a Final Plat must be obtained from the City Council within that 12-month period. The City Council shall withdraw its approval or conditional approval of the Preliminary Plat unless a Final Plat is submitted as required by these Subdivision Regulations within the 12-month period or unless that time period is extended by the City Council at the Developer's request.

### DIVISION 4. FINAL PLATS.

#### Sec. 3.4.1 Specifications for Final Plat.

- (a) After obtaining City Council approval or conditional approval of the Preliminary Plat, the Developer shall prepare a Final Plat that conforms substantially to the Preliminary Plat as approved and to these Subdivision Regulations and other applicable provisions of the Code. If the Preliminary Plat was conditionally approved, all conditions of such approval must be met in the proposed Final Plat.
- (b) The Final Plat must be prepared by appropriate professionals licensed in the State of Oklahoma, and it must be signed and sealed by a registered land surveyor licensed in the State of Oklahoma. The Final Plat must be drawn at a scale of not less than one inch equal two hundred feet on one or more 24-inch by 36-inch sheet. If more than two sheets are required, match line sheets and an index sheet of the same dimensions or a map insert showing the entire Subdivision must be provided. The Final Plat and all supporting maps must be legible and must show the map scale, north arrow, and the date of preparation.
- (c) The Final Plat must include all information required to be provided pursuant to the City's then-current Checklist for Final Plats, including the following information:
  - (1) The name of the proposed Subdivision.
  - (2) The name, address, and contact information for the Developer, the Owner (if other than the Developer), and the person(s) who prepared the Final Plat.
  - (3) The primary control points or descriptions and ties to such control points to which all dimensions, angles, bearings, and similar data on the plat will be referred.
  - (4) The names, addresses, and contact information for the Owners of Property within the proposed Subdivision.
  - (5) The legal description of the land to be subdivided, showing its location and approximate size, north arrow, and graphic scale.
  - (6) Tract boundary lines sufficient to locate the exact areas proposed for Subdivision, right-of-way lines of Streets, easements, and other rights-of-way, Property lines of

residential lots and other sites, all with accurate dimensions, bearings, or deflection angles and radii, arcs, and central angles of all curves.

- (7) Location and dimension of all easements.
  - (8) All Lot Lines and numbers to identify each Lot.
  - (9) Location and description of all survey monuments.
  - (10) Building lines and easements for rights-of-way provided for public use, services, or utilities with figures showing their dimensions.
  - (11) Location and size of Sidewalks.
  - (12) The legal description of land abutting the proposed Subdivision.
  - (13) The alignment of all proposed Streets and Alleys with their widths and names.
  - (14) The accurate outline and description of any Property that is offered for Dedication to the City for public use.
  - (15) Private plat restrictions and covenants whereby the Developer proposes to regulate land use or development standards in the Subdivision.
  - (16) Owner's certificate with acknowledgements; bonded abstractor's certificate; and surveyor's certificate with acknowledgement, all in a form approved by the City Council.
- (d) The Final Plat must include or be accompanied by the following information:
- (1) A report certified by the Oklahoma County Assessor stating the names, addresses, and contact information for the Owners of Property within a 300-foot radius of the exterior boundary of the proposed Subdivision.
  - (2) Construction plans as provided in Section 3.4.4.
- (e) The City Manager may require such additional information to be included in the Final Plat as he, in his reasonable discretion, deems necessary for review.

#### Sec. 3.4.2 Application for and submission of Final Plat.

- (a) The City Manager shall provide an application form for Final Plat approval to be completed by the Developer. The Developer shall submit 12 copies of the application and the Final Plat for filing with the City Manager. The Developer shall also submit a digital copy of the Final Plat satisfactory to the City Manager.
- (b) The Final Plat will be considered officially submitted and filed only after it is examined by City Manager and found to be in compliance with Section 3.4.1.

#### Sec. 3.4.3 Application fee.

A nonrefundable fee in the amount established in the City Fee Schedule must be paid to the City by the Developer with submission of the application for approval of the Final Plat.

#### Sec. 3.4.4 Construction plans.

The Developer shall submit construction plans with the Final Plat that conform to these Subdivision Regulations and other applicable provisions of the Code for all Public Improvements required for the Subdivision. All construction plans must also conform to all standards and specifications required by the City Engineer. All construction plans must be signed and sealed by a professional engineer licensed in the State of Oklahoma and acceptable to the City Engineer.

Sec. 3.4.5 Final Plat review by City Manager.

All Final Plat applications will be initially reviewed by the City Manager. Further, the City Manager will transmit the application and the Final Plat to applicable municipal departments deemed reasonably necessary for proper review of the proposed Subdivision. The City Manager shall forward his recommendation and any comments from other municipal departments regarding the proposed Subdivision and required Public Improvements to the Planning Commission when the application is sufficiently complete for Planning Commission and City Council review.

Sec. 3.4.6 Planning Commission and City Council public hearings; notice of public hearings.

The Planning Commission and the City Council shall each hold public hearings regarding the Final Plat as provided in this Division. The City shall arrange for notice of the hearings to be given by publication in a newspaper of general circulation in the City and by mailing written notice to the Developer and the Owner (if other than the Developer) by registered or certified mail not less than ten calendar days before the date of the Planning Commission's hearing. The City shall also mail notices at the same time by registered or certified mail to the Owners of Property within a 300-foot radius of the exterior boundary of the proposed Subdivision as their names and addresses appear in the report provided by the Developer pursuant to Section 3.4.1(d)(1). The notice of the public hearings must contain the date, time, and location of each hearing; a description of the Final Plat application for the proposed Subdivision; and the legal description of the proposed Subdivision.

Sec. 3.4.7 Planning Commission public hearing and recommendation to City Council.

- (a) The Planning Commission shall hold its public hearing regarding the Final Plat at its next regularly scheduled meeting (or a special meeting at the Planning Commission's sole discretion) following receipt of the City Manager's recommendation, subject to the Planning Commission's right to continue such hearing. The Planning Commission shall thereafter review the application and the Final Plat, the City Manager's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The Planning Commission shall provide a recommendation to the City Council, recommending approval or disapproval of the Final Plat within 90 calendar days from the date of the public hearing. The recommendation may include comments relative to the proposed Subdivision's compliance with these Subdivision Regulations and other applicable provisions of the Code. The recommendation may also include comments from other municipal departments regarding the proposed Subdivision

and required Public Improvements. If the Planning Commission recommends disapproval of the Final Plat, the grounds for such disapproval will be stated in their recommendation.

- (b) If the Planning Commission fails to make its recommendation within the 90 calendar day period, it will be deemed to have recommended approval of the Final Plat to the City Council. However, the Developer may waive this requirement and consent to an extension of such period.
- (c) During the 90-day review period, the City Manager or his Designee may meet with the Developer to discuss and negotiate any proposed changes to the Final Plat deemed advisable by the City Manager and the Planning Commission and the kind and extent of Public Improvements that would be required to be made by the Developer.

#### Sec. 3.4.8 City Council public hearing and Final Plat approval or disapproval.

The City Council shall hold its public hearing regarding the Final Plat at its next regularly scheduled meeting (or a special meeting at the City Council's sole discretion) following receipt of the Planning Commission's recommendation, subject to the City Council's right to continue such hearing. The City Council shall thereafter review the application and the Final Plat, the Planning Commission's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The City Council shall approve, conditionally approve, or disapprove the Final Plat within 90 calendar days from the date of the public hearing. The City Council has absolute discretion to override the recommendation of the Planning Commission in approving, conditionally approving, or disapproving the Final Plat. If the City Council recommends disapproval of the Final Plat, the grounds for such disapproval must be stated in its decision. If the City Council conditionally approves the Final Plat, the conditions that must be satisfied for full approval must be stated in its decision. The action of the City Council will be noted on two copies of the Final Plat. One copy will be returned to the Developer, and one copy will be retained by the City Clerk. If the City Council approves the Final Plat and upon satisfaction of the requirements of Article IV for completion of Public Improvements and approval of the City Engineer as provided in Section 3.4.11, the Chairman of the Planning Commission and the Mayor or Vice-Mayor shall endorse the Final Plat as provided in Section 3.4.12 and return it to the Developer for filing of record with the County Clerk.

#### Sec. 3.4.9 Completion of Public Improvements.

Completion of the applicable Public Improvements for the Subdivision as provided in Article VI is mandatory. Failure to complete the Public Improvements may result in nullification and vacation of the Final Plat for Subdivisions as to which the Final Plat had been approved or the forfeiture of the bond or other instrument of assurance for Subdivisions as to which the Developer provided a Guarantee. The City will also be entitled to exercise any other rights available to it under applicable Law. Any forfeited monies received by the City for failure to

complete required Public Improvements will be applied to completion of such Public Improvements.

Sec. 3.4.10 Rights by virtue of Final Plat.

Rights will not accrue to any Final Plat by reason of its final approval until the Final Plat is signed by the Chairman of the Planning Commission, endorsing his approval of the Final Plat, and signed by the Mayor or Vice-Mayor, indicating City Council acceptance of the Final Plat as provided in Section 3.4.12. All requirements, conditions, or regulations adopted by the City Council applicable to the Subdivision must be fulfilled before the Final Plat is so endorsed.

Sec. 3.4.11 City Engineer approval of Final Plat.

- (a) When installation of Public Improvements is required in advance of endorsement of the Final Plat, the City Engineer shall endorse approval on the Final Plat after all such Public Improvements have been satisfactorily completed as provided in Section 6.7 and accepted by the City and all conditions of the final approval pertaining to the Final Plat have been satisfied.
- (b) When a Guarantee is to be provided regarding Public Improvements to be constructed as provided in Section 6.2, the City Engineer shall endorse approval on the Final Plat after the Guarantee has been accepted by the City Council as provided in Section 6.2 and after all conditions of the final approval pertaining to the Final Plat have been satisfied.

Sec. 3.4.12 Endorsement of City Council’s approval on Final Plat.

Upon approval of the City Engineer as provided in Section 3.4.11 and City Council approval and acceptance of the Final Plat as provided in Section 3.4.8, the Chairman of the Planning Commission and the Mayor or Vice-Mayor, as the case may be, shall endorse the City Council’s approval and acceptance on the face of the Final Plat in substantially the following language:

“This Final Plat was approved on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the City Council of the City of Nichols Hills, Oklahoma, pursuant to the Nichols Hills Subdivision Regulations as adopted in the Nichols Hill City Code.

_____ (signature and title)	
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The City Clerk shall also stamp the Final Plat with the City’s official seal.

Sec. 3.4.13 Acceptance of Dedications.

The City Council shall accept Dedication of easements, rights-of-way, Public Improvements, and Public Grounds in the Subdivision by Resolution after the Chairman of the Planning Commission

and the Mayor or Vice-Mayor have endorsed the City Council's approval on the Final Plat and after all Public Improvements are either complete as provided in Section 6.7 or, if permitted under Section 6.2, a Guarantee is provided.

Sec. 3.4.14 Submittal of Final Plat as a digital copy.

The Developer shall submit a satisfactory digital copy of the Final Plat to the City Manager within 15 calendar days from the date of the City Council's Resolution accepting and dedicating the Subdivision to the public. Information contained in the digital copy must be identical to that shown on the drawing to be filed with the County Clerk.

Sec. 3.4.15 Recording of Final Plat.

The Developer shall file the Final Plat with the County Clerk within 90 calendar days of the date of the endorsement of approval of it by the Chairman of the Planning Commission and the Mayor or Vice-Mayor as provided in Section 3.4.12. The Developer shall return one certified copy of the recorded Final Plat, indicating the book and page of recordation, to the City Clerk within that 90 calendar day period. If the Developer does not do so, approval of the Final Plat will be null and void.

DIVISION 6. NULLIFICATION AND VACATION OF PLATS

Sec. 3.6.1 Procedure for unrecorded Final Plats.

- (a) After a Final Plat is approved and before it is recorded, the Developer may seek to have the Final Plat (or any part of it) nullified and vacated by executing a written instrument declaring the Final Plat (or applicable part of it) to be nullified and vacated and attaching that instrument to the Final Plat.
- (b) The Developer shall submit the Final Plat with the attached written instrument nullifying and vacating it (or part of it) to the Planning Commission for review and recommendation and approval of the City Council in the same manner as required for Final Plat approval.
- (c) Upon approval of the nullification and vacation of the Final Plat (or part of it), the Developer shall record the Final Plat with the attached written instrument nullifying and vacating it (or part of it) with the County Clerk. Upon such recording, the instrument will operate to destroy the force and effect of the Final Plat approval and to divest all public rights in the Dedications laid out or described in the Final Plat.

Sec. 3.6.2 Procedure for recorded Final Plat vacated with approval of City Council.

- (a) After a Final Plat has been recorded, the Developer may seek to have the Final Plat (or any part of it) nullified and vacated by executing a written instrument declaring the Final

Plat (or applicable part of it) to be nullified and vacated and attaching that instrument to the Final Plat.

- (b) To qualify for such nullification and vacation, the Final Plat must meet the following requirements:
  - (1) None of the Lots in the Subdivision have been sold.
  - (2) If any Lots have been sold, the majority of Owners of the Lots in the Subdivision and all Owners in the area to be vacated must approve the proposed nullification and vacation in writing, such written approval to be submitted to the Planning Commission.
  - (3) The request for nullification and vacation must be in accordance with 11 O.S. § 42-101 et seq.
- (c) The Developer shall submit the Final Plat with the attached written instrument nullifying and vacating it (or part of it) to the Planning Commission for review and recommendation and approval of the City Council in the same manner as required for Final Plat approval.
- (d) Upon approval of the nullification and vacation of the Final Plat (or part of it), the Developer shall record the Final Plat with the attached written instrument nullifying and vacating it (or part of it) with the County Clerk. Upon such recording, the instrument will operate to destroy the force and effect of the Final Plat approval and to divest all public rights in the Dedications laid out or described in the Final Plat.

#### Sec. 3.6.3 Procedure for recorded Final Plat vacated by court order.

If the proposed vacation and nullification of a Final Plat (or part of it) does not meet the prerequisites for vacation and nullification under Section 3.6.1 or Section 3.6.2, the Developer must obtain approval of a court of competent jurisdiction in the county as required by 11 O.S. § 42-101 et seq.

### **ARTICLE IV. DEED APPROVAL**

#### DIVISION 1. GENERALLY

##### Sec. 4.1.1 Deed Approval as an exemption to platting.

Deed Approval is intended to: (1) allow minor adjustments to be made to Lot Lines; (2) facilitate the approval of certain unplatted tracts described by metes and bounds and simple divisions of land; (3) allow Lot Splits; and (4) allow for combining Lots, Building Sites, and/or Tracts into Combined Lots in specified circumstances. Extensive subdivision or re-subdivision may not be accomplished by use of this Article.

##### Sec. 4.1.2 Approval of Deeds in general.

- (a) The City Manager is authorized to approve certain Deeds for Lot Line Adjustments without action of the Planning Commission or City Council, as provided in this Article. Where the City Manager is not so authorized pursuant to this Article or where the City Manager believes, in his reasonable discretion, that it is in the City's best interests for the City Council to approve or disapprove the application after receiving a recommendation from the Planning Commission and affording public hearings, the City Manager shall forward the application to the Planning Commission and City Council, as provided in this Article.
- (b) Only the City Council is authorized to approve or disapprove Deeds that convey land in a Tract of five acres or less that is described by metes and bounds, Deeds for Lot Splits, and Deeds for Combined Lots after receiving a recommendation from the Planning Commission and affording public hearings, as provided in this Article.

Sec. 4.1.3 Deed Approval not construed to waive requirements.

Deed Approval may not be construed as a waiver of any Law or covenant or restriction imposed by the City, including any requirement or regulation of these Subdivision Regulations, the Code, nor of any of the provisions of any other Ordinance or statute pertaining to the applicable Property.

Sec. 4.1.4 Probable re-subdivision or extensive Public Improvements.

Whenever it appears to be probable that a Lot, Combined Lot, or Building Site to be created by Deed Approval will eventually be re-subdivided or that extensive Public Improvements will be required, Deed Approval is not permitted. Such Lot, Combined Lot, or Building Site must be platted and approved as provided in Article III.

Sec. 4.1.5 Application fee.

A nonrefundable fee in the amount established in the City Fee Schedule must be paid to the City Clerk by the Owner with submission of an application for Deed Approval.

DIVISION 2. LOT LINE ADJUSTMENTS

Sec. 4.2.1 Unapproved Deeds for Lot Line Adjustment not entitled to record.

As provided in Section 4.1.2, a Deed that results in a Lot Line Adjustment is not be entitled to record unless it is approved as provided in this Article. Expiration of the five-year limitation period provided by 16 O.S. § 27(a) will not grant a waiver of an unapproved Deed to any of the restrictions or requirements of these Subdivision Regulations or the Code.

Sec. 4.2.2 City Manager authority for Deed Approval of Lot Line Adjustments.



The City Manager is authorized to approve Deeds for Lot Line Adjustments only under the following conditions:

- (a) No additional Lot or Building Site will be created by or result from the proposed Lot Line Adjustment.
- (b) No Lot or Building Site that is unusable or does not meet the minimum size requirements or any other requirements of applicable plat restrictions of the Code or any other regulation or Ordinance of the City will be created by or result from the proposed Lot Line Adjustment.
- (c) All off-site Public Improvements are either completed and accepted by the City or their construction is subject to a Guarantee as provided in Section 6.2.
- (d) All Building Sites, whether existing or proposed, affected by the proposed Lot Line Adjustment will have a width at the front Building line that is not less than the width of the narrowest width Lot as shown on the then-current plat, measured at the front Building line, of any Lot that fronts on the same Street, within the same block, or across the Street from the same block, in which such existing or proposed Building Site is located; provided however, this Subsection may not be interpreted to deny eligibility for Lot Line Adjustments that meet all other criteria of this Section and are located on a cul-de-sac;
- (e) All proposed Lots or Building Sites involved will abut on an existing and adequate public utility easement and on a public Street.
- (f) The Dedication or abandonment of public rights-of-way and easements is not required by the proposed Lot Line Adjustment.

#### Sec. 4.2.3 Deed Approval of Lot Line Adjustment where City Manager not authorized.

When the City Manager is not authorized to approve a Deed for Lot Line Adjustments as provided in Section 4.2.2 or when the City Manager believes, in his reasonable discretion, that it is in the City's best interests for the City Council to approve or disapprove the application after receiving a recommendation from the Planning Commission and affording public hearings, only the City Council is authorized to approve the Deed for Lot Line Adjustment.

#### Sec. 4.2.4 Application requirements for Deed Approval of Lot Line Adjustments.

An Owner(s) requesting Deed Approval for a Lot Line Adjustment shall file a written application with the City Manager on an application form supplied by the City Manager. The application must include or have attached to it the following:

- (a) Owner's name, address, and contact information.
- (b) The form of the Deed proposed, which must comply with Section 4.2.5.
- (c) The original or a certified copy of the Owner's Deed to the Property to be affected by the proposed Deed.
- (d) A certified pin survey of the Property prepared by a registered land surveyor licensed in the State of Oklahoma and showing all boundary lines; the location and dimensions of existing Buildings, yards, landscaping, pedestrian and vehicular circulation, parking,

Fences and screening, service areas and other features; easements and rights-of-way; the legal description of the original Lot or Building Site; and all Public Improvements on and adjacent to the Property.

- (e) Deeds of Lots and Building Sites bordering the Lot(s) affected by the request for Deed Approval, if deemed reasonably necessary by the City Manager.
- (f) Written consents regarding the proposed Lot Line Adjustment, if any, from Owners of bordering Lots or Building Sites.

The application will be considered officially submitted and filed only after it is examined by the City Manager and found to have met the requirements of this Section and after the fee required by Section 4.1.5 has been paid. The application will be reviewed as provided in Division 6 of this Article.

#### Sec. 4.2.5 Form of Deed.

The Deed proposed to effectuate the Lot Line Adjustment must include accurate legal descriptions, in format as prescribed on the application form, for all Property to be affected by the proposed Deed, including an accurate legal description of the land taken from one Lot or Building Site and added to the adjoining Lot or Building Site; and accurate legal descriptions of each of the new Lots or Building Sites that will result from the Lot Line Adjustment. The Deed must also provide that:

- (a) The Owner(s) of the Lot or Building Site to which land was added may not sell, transfer, convey, or mortgage the added land separate and apart from the remainder of the Lot or Building Site resulting from the Lot Line Adjustment, and any attempt to do so will be void.
- (b) Such covenants will run with title to the Lot or Building Site to which land was added and will be binding on all parties having or acquiring any right, title, or interest in the Lot or Building Site to which land was added.
- (c) Such covenants will be for and inure to the benefit of the City, which will have the right and standing to enforce the terms of such covenant.

An Affidavit may be used in lieu of a Deed provided that such Affidavit complies with the requirements of this Section. Further, an Affidavit may be used to evidence the legal description of the Lot or Building Site from which land is taken as a result of the Lot Line Adjustment provided that such Affidavit is approved and filed of record as provided in Sections 4.6.3 and 4.6.4.

### DIVISION 3. METES AND BOUNDS TRACTS.

#### Sec. 4.3.1 Unapproved metes and bounds Tract Deeds not entitled to record.

As provided in Section 4.1.2, a Deed purporting to convey land in a Tract of five acres or less described by metes and bounds is not entitled to record unless it is approved by the City Council

as provided in this Article. Expiration of the five-year limitation period provided by 16 O.S. § 27(a) will not grant a waiver of an unapproved Deed to any of the restrictions or requirements of these Subdivision Regulations or the Code.

#### Sec. 4.3.2 Deed Approval of metes and bounds Tracts.

The Planning Commission and City Council will consider approval of Deeds purporting to convey land in a Tract of five acres or less that is described by metes and bounds as provided in this Article.

#### Sec. 4.3.3 Application requirements for Deed Approval of metes and bounds Tracts.

An Owner(s) requesting Deed Approval for a Tract of five acres or less that is described by metes and bounds shall file a written application with the City Manager on an application form supplied by the City Manager. The application must include or have attached to it the following:

- (a) Owner's name, address, and contact information.
- (b) The form of the Deed proposed, with accurate legal descriptions, in format as prescribed on the application form, for all Property to be affected by the proposed Deed.
- (c) An Affidavit or other satisfactory evidence that the Property is occupied by the Owner.
- (d) The original or a certified copy of the Owner's Deed to the Property to be affected by the proposed Deed.
- (e) A certified pin survey of the Property prepared by a registered land surveyor licensed in the State of Oklahoma and showing all boundary lines; the location and dimensions of existing Buildings, yards, landscaping, pedestrian and vehicular circulation, parking, Fences and screening, service areas and other features; easements and rights-of-way; the legal description of the Property affected by the proposed Deed; and all Public Improvements on and adjacent to the Property.

The application will be considered officially submitted and filed only after it is examined by the City Manager and found to have met the requirements of this Section and after the fee required by Section 4.1.5 has been paid. The application will be reviewed as provided in Division 6 of this Article.

### DIVISION 4. LOT SPLITS

#### Sec. 4.4.1 Unapproved Deeds for Lot Split not entitled to record.

As provided in Section 4.1.2, a Deed that results in a Lot Split is not entitled to record unless it is approved as provided in this Article. Expiration of the five-year limitation period provided by 16 O.S. § 27(a) will not grant a waiver of an unapproved Deed to any of the restrictions or requirements of these Subdivision Regulations or the Code.

#### Sec. 4.4.2 Deed Approval of Lot Splits.

The Planning Commission and City Council will consider approval of Deeds for Lot Splits as provided in this Article.

#### Sec. 4.4.3 Application requirements for Deed Approval of Lot Splits.

An Owner(s) requesting Deed Approval for a Lot Split shall file a written application with the City Manager on an application form supplied by the City Manager. The application must include or have attached to it the following:

- (a) Owner's name, address, and contact information.
- (b) The form of the Deed(s) proposed, which must comply with Section 4.4.4.
- (c) The original or a certified copy of the Owner's Deed to the Property to be affected by the proposed Deed.
- (d) A certified pin survey of the Property prepared by a registered land surveyor licensed in the State of Oklahoma and showing all boundary lines; the location and dimensions of existing Buildings, yards, landscaping, pedestrian and vehicular circulation, parking, Fences and screening, service areas and other features; easements and rights-of-way; the legal description of the original Lot; and all Public Improvements on and adjacent to the Property.
- (e) Deeds of Lots bordering the Lot(s) affected by the request for Deed Approval, if deemed reasonably necessary by the City Manager.
- (f) Written consents regarding the proposed Lot Split, if any, from Owners of bordering Lots or Building Sites.

The application will be considered officially submitted and filed only after it is examined by the City Manager and found to have met the requirements of this Section and after the fee required by Section 4.1.5 has been paid. The application will be reviewed as provided in Division 6 of this Article.

#### Sec. 4.4.4 Form of Deed.

The Deed(s) proposed to effectuate the Lot Split must include accurate legal descriptions, in format as prescribed on the application form, for all Property to be affected by the proposed Deed, including the legal description for the existing Lot proposed for the Lot Split and the legal descriptions for each of the Lots that would result from the Lot Split. An Affidavit may be used in lieu of a Deed provided that such Affidavit complies with the requirements of this Section.

#### Sec. 4.4.5 Time limitation on applications for Lot Splits.

No Lot that has been the subject of Deed Approval and created by a Lot Split Deed may be split again for a period of one year from the date of approval of the applicable Deed unless platted and approved as provided in Article III.

## DIVISION 5. COMBINING LOTS

### Sec. 4.5.1 Unapproved Deeds for Combined Lots not entitled to record.

As provided in Section 4.1.2, a Deed that results in a Combined Lot is not entitled to record unless it is approved as provided in this Article. Expiration of the five-year limitation period provided by 16 O.S. § 27(a) will not grant a waiver of an unapproved Deed to any of the restrictions or requirements of these Subdivision Regulations or the Code.

### Sec. 4.5.2 Deed Approval of Combined Lots.

The Planning Commission and City Council will consider approval of Deeds that result in a Combined Lot only under the following conditions:

- (a) The entirety of two or more contiguous Lots, Building Sites, and/or Tracts will be combined into one Lot based on the original legal description submitted with the application for Deed Approval of the Combined Lot.
- (b) The proposed Combined Lot will meet the minimum size requirements and all other requirements of applicable plat restrictions of the Code or any other regulation or Ordinance of the City.
- (c) All off-site Public Improvements are either completed and accepted by the City or their construction is subject to a Guarantee as provided in Section 6.2.
- (d) The Dedication of public rights-of-way and easements is not required by the proposed Combined Lot.
- (e) Public rights-of-way and easements exist that are adequate to serve the proposed Combined Lot, as determined by the Planning Commission and the City Council.

### Sec. 4.5.3 Deed Approval of Combined Lot where Section 4.5.2 conditions not met.

When the conditions for City Council approval of a Combined Lot provided in Section 4.5.2 are not met, the Lots must follow the plat procedures provided in Article III.

### Sec. 4.5.4 Application requirements for Deed Approval of Combined Lots.

An Owner(s) requesting Deed Approval of a Combined Lot shall file a written application with the City Manager on an application form supplied by the City Manager. The application must include or have attached to it the following:

- (a) Owner's name, address, and contact information.
- (b) The form of the Deed(s) proposed, which must comply with Section 4.5.5.
- (c) The original or a certified copy of the Owner's Deed to the Property to be affected by the proposed Deed.

- (d) A certified pin survey of the Property prepared by a land surveyor licensed in the State of Oklahoma and showing all boundary lines; the location and dimensions of existing Buildings, yards, landscaping, pedestrian and vehicular circulation, parking, Fences and screening, service areas and other features; easements and rights-of-way; the legal description of the original Lots; and all Public Improvements on and
- (e) Deeds of Lots bordering the Lot(s) affected by the request for Deed Approval, if deemed reasonably necessary by the City Manager.
- (f) Written consents regarding the proposed Combined Lot, if any, from all Owners of the proposed Combined Lot and the Owners of bordering Lots or Building Sites.

The application will be considered officially submitted and filed only after it is examined by the City Manager and found to have met the requirements of this Section and after the fee required by Section 4.1.5 has been paid. The application will be reviewed as provided in Division 6 of this Article.

#### Sec. 4.5.5 Form of Deed.

The Deed(s) proposed to effectuate the Combined Lot must include accurate legal descriptions, in format as prescribed on the application form, for all Property to be affected by the proposed Deed, including the legal description for each of the existing Lots being combined and the legal description for the Combined Lot. The Deed(s) must also provide that:

- (a) The Owner(s) of the Combined Lot may not sell, transfer, convey, or mortgage either of the Lots comprising the Combined Lot separate and apart from each other, and any attempt to do so will be void.
- (b) Such covenants will run with title to the Combined Lot and will be binding on all parties having or acquiring any right, title, or interest in the Combined Lot (or part of it).
- (c) Such covenants will be for and inure to the benefit of the City, which will have the right and standing to enforce the terms of such covenant.

If the Lots being combined are owned by the same Owner(s), an Affidavit may be used in lieu of a Deed provided that such Affidavit complies with the requirements of this Section.

### DIVISION 6. DEED APPROVAL PROCESS

#### Sec. 4.6.1 Deed Approvals for Lot Line Adjustments.

When the City Manager is authorized to review an application for Deed Approval of a Lot Line Adjustment as provided in this Article, he shall approve or disapprove the proposed Deed or Affidavit within 90 calendar days from the date the application is filed. If the City Manager approves the application, the City Manager shall endorse the Deed or Affidavit as required by

Section 4.6.3 and return it to the Owner for filing of record with the County Clerk. If the City Manager disapproves the application, the Owner will be so notified in writing.

Sec. 4.6.2 Deed Approvals reviewed by Planning Commission and City Council.

- (a) The Planning Commission and City Council shall review all applications for Deed Approval of metes and bounds Tracts, Lot Splits, and Combined Lots. Further, the Planning Commission and City Council shall review applications for Deed Approval of Lot Line Adjustments when the City Manager is not authorized to do so or exercises his discretion to not do so, in which case the Owner will be so notified by the City Manager.
- (b) For all Deed Approval applications to be reviewed by Planning Commission and City Council, the Owner shall submit a report certified by the Oklahoma County Assessor stating the names, addresses, and contact information for the Owners of Property within a 300-foot radius of the exterior boundary of the proposed Subdivision within ten calendar days of being notified that the City Council will review the application.
- (c) All Deed Approval applications will be initially reviewed by the City Manager. Further, the City Manager will transmit the application and the proposed Deed or Affidavit to applicable municipal departments as deemed reasonably necessary for proper review of the proposed Subdivision. The City Manager shall forward his recommendation and any comments from other municipal departments regarding the proposed Subdivision and any required Public Improvements to the Planning Commission when the application is sufficiently complete for Planning Commission and City Council review.
- (d) The Planning Commission and the City Council shall each hold public hearings regarding the proposed Deed or Affidavit as provided in this Section. The City shall arrange for notice of the hearings to be given by publication in a newspaper of general circulation in the City and by mailing written notice to the Owner by registered or certified mail not less than ten calendar days before the date of the Planning Commission's hearing. The City shall also mail notices at the same time by registered or certified mail to the Owners of Property within a 300-foot radius of the exterior boundary of the proposed Subdivision as their names and addresses appear in the report provided by the Owner pursuant to Section 4.6.2(b). The notice of the public hearings must contain the date, time, and location of each hearing; a description of the Deed Approval application for the proposed Deed or Affidavit; and the legal description(s) on the proposed Deed or Affidavit.
- (e) The Planning Commission shall hold its public hearing regarding the proposed Deed or Affidavit at its next regularly scheduled meeting (or a special meeting at the Planning Commission's sole discretion) following receipt of the City Manager's recommendation, subject to the Planning Commission's right to continue such hearing. The Planning Commission shall thereafter review the application and the proposed Deed or Affidavit, the City Manager's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The Planning

Commission shall provide a recommendation to the City Council, recommending approval or disapproval of the proposed Deed or Affidavit within 90 calendar days from the date of the public hearing. The recommendation may include comments relative to the proposed Subdivision's compliance with these Subdivision Regulations and other applicable provisions of the Code. The recommendation may also include comments from other municipal departments regarding the proposed Subdivision and any required Public Improvements. If the Planning Commission recommends disapproval of the proposed Deed or Affidavit, the grounds for such disapproval will be stated in their recommendation.

- (f) If the Planning Commission fails to make its recommendation within the 90 calendar day period, it will be deemed to have recommended approval of the proposed Deed or Affidavit to the City Council. However, the Owner may waive this requirement and consent to an extension of such period.
- (g) The City Council shall hold its public hearing regarding the proposed Deed or Affidavit at its next regularly scheduled meeting (or a special meeting at the City Council's sole discretion) following receipt of the Planning Commission's recommendation, subject to the City Council's right to continue such hearing. The City Council shall thereafter review the application and the proposed Deed or Affidavit, the Planning Commission's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The City Council shall approve or disapprove the proposed Deed or Affidavit within 90 calendar days from the date of the public hearing. The City Council has absolute discretion to override the recommendation of the Planning Commission in approving or disapproving the proposed Deed or Affidavit. If the City Council approves the proposed Deed or Affidavit, the City Manager and the Mayor or Vice-Mayor shall endorse the Deed as required by Section 4.6.3 and return it to the Owner for filing of record with the County Clerk. If the City Council recommends disapproval of the Deed, the grounds for such disapproval must be stated in its decision.

Sec. 4.6.3 Endorsement of approval on Deed or Affidavit.

Upon approval of an application for Deed Approval, the City Manager and the Mayor or Vice-Mayor shall endorse approval on the face of the Deed(s) or Affidavit(s), in substantially the following language:

"This conveyance was approved on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the (City Manager or City Council) of the City of Nichols Hills, Oklahoma, pursuant to the Nichols Hills Subdivision Regulations as adopted in the Nichols Hill City Code.

_____ (signature and title)	
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Sec. 4.6.4 Recording of Deed or Affidavit.



The Owner shall file the Deed or Affidavit with the County Clerk within 90 calendar days of the date of the endorsement of approval of the City Manager and the Mayor or Vice-Mayor. The Owner shall return one certified copy of the recorded Deed or Affidavit, indicating the book and page of recordation, to the City Manager within that 90 calendar day period. If the Owner does not do so, final approval of the Deed or Affidavit will be null and void.

## **ARTICLE V. SUBDIVISION DESIGN STANDARDS**

### **DIVISION 1. GENERALLY**

#### **Sec. 5.1.1 Conformance to applicable rules and regulations.**

In addition to the requirements set out in these Subdivision Regulations, all Subdivisions must comply with applicable Oklahoma state Law; applicable Oklahoma County Law; applicable provisions of the Code, including the Building Code, the Flood Damage Prevention Code, and the Zoning Code. The City Council, Planning Commission, or City Manager, as the case may be, shall withhold approval of a Preliminary Plat, Final Plat, or Deed Approval if the proposed Subdivision does not so comply provided that the City Council, Planning Commission, or City Manager, as the case may be, may continue consideration of the proposed Subdivision to a date certain on the condition that the applicant obtain a variance from strict compliance with the Zoning Code or approval of a proposed Planned Unit Development as provided in Article VII.

#### **Sec. 5.1.2 Adequate public facilities.**

The City Council shall not approve a Preliminary Plat unless it determines that public facilities will be adequate to support and service the area of the proposed Subdivision. Upon request by the City Manager, City Engineer, or Planning Commission, the Developer shall submit sufficient information and data regarding the proposed Subdivision to demonstrate the expected impact on and use of public facilities and services by possible uses of the proposed Subdivision. Public facilities and services to be examined for adequacy will include necessary Street improvements, storm drainage, water, sewerage, capital improvements, and other improvements.

#### **Sec. 5.1.3 Self-imposed restrictive covenants.**

If the Developer wishes to place restrictive covenants on the land contained in a Subdivision (or any part of it) that are greater than those required by these Subdivision Regulations or other applicable provisions of the Code, including the Zoning Code, such restrictive covenants must be filed of record with the Final Plat or approved Deed, as the case may be. Such restrictive covenants must comply with applicable Oklahoma state Law; applicable Oklahoma County Law; applicable provisions of the Code, including the Building Code, the Flood Damage Prevention Code, and the Zoning Code. The City does not approve or enforce such restrictive covenants.

#### **Sec. 5.1.4 Monuments and benchmarks.**

The Developer shall ensure that appropriate permanent monuments and benchmarks for the Subdivision are set by a registered land surveyor licensed in the State of Oklahoma and are in compliance with 11 O.S. § 41-103.

#### Sec. 5.1.5 Subdivision name.

The proposed name for a Subdivision must be sufficiently different in sound and spelling from other Subdivision names in the City and in Oklahoma County to avoid any duplication or confusion. The City Council has final authority to approve the proposed Subdivision name as part of the Subdivision approval process.

### DIVISION 2: LOT STANDARDS

#### Sec. 5.2.1 Lot arrangement.

Lots must be arranged such that there will be no foreseeable difficulties, whether from topography or other natural or man-made conditions, in securing Building Permits to build on all Lots in compliance with the Zoning Code and to provide access to all Buildings on the Lots from approved Streets.

#### Sec. 5.2.2 Lot dimensions.

Lot dimensions must comply with the standards provided in the Zoning Code for the Zoning District in which the Subdivision is located. Minimum Lot dimension and area will include any right-of-way or easement, whether public or private, in Lot size calculations. Dimensions of Corner Lots must be large enough to allow for the erection of Buildings, observing the minimum Building Setback Lines from both Streets. Dimensions of Property reserved or laid out for business or commercial purposes must be of sufficient size to provide for the off-street parking and loading facilities as required by the Zoning Code for the type of use and development contemplated.

#### Sec. 5.2.3 Lot orientation.

All Lots must face and have contiguous frontage on a usable public or private Street right-of-way. All side lines of Lots must be substantially at right angles to Street lines or radial to curving Street lines unless a variation to this regulation would provide a better Street or Lot layout plan.

#### Sec. 5.2.4 Lot drainage.

Lots must be laid out to provide positive drainage away from all Buildings or potential Building Sites. Individual Lot drainage must be coordinated with the general storm drainage pattern for the area. Drainage must comply in all respects with the Flood Damage Prevention Code.

#### Sec. 5.2.5 Double Frontage Lots.

Developers shall avoid Double Frontage Lots except where essential to overcome specific disadvantages of topography and orientation and where such Double Frontage Lots will otherwise be in compliance with the Zoning Code.

### DIVISION 3 STREET STANDARDS

#### Sec. 5.3.1 Proposed Street names.

The Developer shall propose Street names on the Preliminary Plat and the Final Plat as provided in Sections 3.3.1 and 3.4.1. Proposed Street names must be sufficiently different in sound and spelling from other Street names in the City and in Oklahoma City to avoid any duplication or confusion. Streets that are in alignment with existing and named Streets must bear the same name as the existing and named Street. Proposed Street names will be deemed finally approved by the City Council upon its approval of the applicable Final Plat.

#### Sec. 5.3.2 Street name changes.

- (a) The Planning Commission, City Council, or Owners of more than one-half of the total linear frontage on a Street may file an application with the City Manager for a Street (or portion of a Street) to be renamed. The application must include:
  - (1) A petition requesting the Street (or portion of a Street) name change, containing the current Street name, its location, and the written consent of Owners of more than one-half of the total linear frontage on the applicable Street.
  - (2) A report certified by the Oklahoma County Assessor stating the names, addresses, and contact information for the Owners of Property abutting the entire frontage of the Street (or portion of it) to be renamed.
  - (3) A nonrefundable fee in the amount established in the City Fee Schedule.
- (b) The application for Street name change will be reviewed by the City Manager. Further, the City Manager shall transmit the application to applicable municipal departments as deemed reasonably necessary for proper review of the proposed Street name change. The City Manager shall forward his recommendation and any comments from other municipal departments regarding the proposed Street name change to the Planning Commission when the application is sufficiently complete for Planning Commission and City Council review.
- (c) The Planning Commission and the City Council shall each hold public hearings regarding the proposed Street name change as provided in this Section. The City shall arrange for notice of the hearings to be given by publication in a newspaper of general circulation in the City and by mailing written notice to the Owners of Property abutting the entire frontage of the Street (or portion of it) to be renamed as their names and addresses

appear in the report provided by the applicant pursuant to Section 5.3.2(a)(2) by registered or certified mail not less than ten calendar days before the date of the Planning Commission's hearing. The notice of the public hearings must contain the date, time, and location of each hearing and a description of the application.

- (d) The Planning Commission shall hold its public hearing at its next regularly scheduled meeting (or a special meeting at the Planning Commission's sole discretion) following receipt of the City Manager's recommendation, subject to the Planning Commission's right to continue such hearing. The Planning Commission shall review the application, the City Manager's recommendation, any recommendations from officials or other municipal departments and testimony and exhibits submitted at the public hearing. The Planning Commission shall provide a recommendation to the City Council, recommending approval or disapproval of the proposed Street name change within 90 calendar days from the date of the public hearing. If the Planning Commission recommends approval of the application, an ordinance establishing the Street name change shall be introduced to the City Council.
- (e) The City Council shall hold its public hearing regarding the application at its next regularly scheduled meeting (or a special meeting at the City Council's sole discretion) following receipt of the Planning Commission recommendation, subject to the City Council's right to continue such hearing. The City Council shall thereafter review the application, the Planning Commission's recommendation, any recommendations from officials or other municipal departments, and testimony and exhibits submitted at the public hearing. The City Council shall approve or disapprove the application within 90 calendar days from the date of the public hearing. The City Council has absolute discretion to override the recommendation of the Planning Commission in approving or disapproving the application.

#### Sec. 5.3.3 Street designation changes.

The Planning Commission and City Council shall consider applications for changing existing public Streets to private Streets and private Streets to public Streets in accordance with this Section.

- (a) Public Streets may be changed to private Streets only when:
  - (1) The Street is first closed and vacated by the Planning Commission and City Council.
  - (2) The Street is then vacated through action of the District Court of Oklahoma County, Oklahoma.
  - (3) Such District Court's instrument of vacation is then submitted to and reviewed and approved by the Planning Commission and City Council.
  - (4) The applicable Final Plat is then revised and such revision is approved by City Council to provide for designation of the Street as a private Street.

(b) Private Streets may be changed to public Streets only when:

- (1) The City Manager, in his sole discretion accepts that the Street meets all requirements for public Streets in the City.
- (2) The Street's designation as a private Street is vacated by the Planning Commission and City Council or by action of the District Court of Oklahoma County, Oklahoma.
- (3) The applicable Final Plat is then revised and such revision is approved by City Council to provide for designation and Dedication of the Street as a public Street.

## **ARTICLE VI. COMPLETION, DEDICATION, AND MAINTENANCE OF PUBLIC IMPROVEMENTS**

### **Sec. 6.1 Construction and completion of Public Improvements.**

Public Improvements may be installed only in accordance with a Final Plat that has been approved by the City Council as provided in Section 3.4.8 and endorsed as provided in Section 3.4.12. Before the City Council will approve and the Chairman of the Planning Commission and the Mayor or Vice-Mayor will endorse a Final Plat, the Developer must have completed those Public Improvements as specified on it to the City Engineer's satisfaction and in accordance with the Construction Plans, the Final Plat, and these Subdivision Regulations.

### **Sec. 6.2 Guarantee in lieu of completion of Public Improvements.**

In lieu of requiring the Developer to complete the Public Improvements prior to the City Council's approval and the Chairman of the Planning Commission's and the Mayor or Vice-Mayor's endorsement of the Final Plat, the City Manager may, in his reasonable discretion, waive that requirement and allow the Developer to provide a Guarantee whereby the Developer agrees to complete the Public Improvements. Subject to acceptance of such waiver by the City Council, in their reasonable discretion, the Developer shall provide one of the following Guarantees:

- (a) Surety bond issued by an institution licensed in the State of Oklahoma as a surety company with an AAA rating or otherwise approved by the City Council, such bond to be released only when the Public Improvements are complete as required by this Article.
- (b) Escrow account of either cash or other instrument readily convertible into cash in escrow with a bank or savings and loan institution, such escrowed amount to be held in trust until released by the City Council and not used by the Developer as security in any other matter and to be payable to the City if the Developer fails to complete the Public Improvements as required by this Article.
- (c) Letter of credit from a bank, trust company, or savings and loan institution, that may not be withdrawn or reduced unless approved by the City Council and that is payable to the City if the Developer fails to complete the Public Improvements as required by this Article.

In each case, the Guarantee must be in the amount of one hundred ten percent (110%) of the full amount of the cost to complete the Public Improvements as estimated by a professional engineer reviewed by the City Manager and approved by the City Council and licensed in the State of Oklahoma. The amount of the Guarantee may be reduced from time to time as Public Improvements are completed for the Subdivision as provided in Section 6.7 based on the ratio that the cost of the Public Improvements completed bears to the total cost of the Public Improvements required for the Subdivision. In no event may any Guarantee be reduced below ten percent (10%) of its initial amount.

#### Sec. 6.3 Time period for completion of Public Improvements.

- (a) The Developer shall complete all Public Improvements within two calendar years from the date of the City Council's approval or conditional approval of the Final Plat or from the date of the City Council's acceptance of a Guarantee for completion of the Public Improvements, whichever is applicable.
- (b) Upon application by the Developer to the Planning Commission establishing proof of hardship, the Planning Commission may recommend to the City Council an extension of the time for the Developer to complete the Public Improvements. Such an extension may not be granted more than three times, and the maximum time limit for completion of the Public Improvements may not exceed three calendar years. Each application for such an extension must be accompanied by an updated estimate of the construction costs prepared by a professional engineer approved by the City Manager and licensed in the State of Oklahoma. A Guarantee as provided in Section 6.2 will be required in the amount of one hundred ten percent (110%) of the updated estimate of construction costs, as approved by the City Manager.

#### Sec. 6.4 Cost of Public Improvements.

The Developer must construct all Public Improvements at its sole cost and expense without reimbursement by the City.

#### Sec. 6.5 Failure to complete Public Improvements.

If the Developer does not complete the Public Improvements within the time period required, the City Council's approval of the Final Plat will be deemed to have expired. Further, for Subdivisions as to which the Developer provided a Guarantee, the City may declare the bond or other instrument to be in default and require that the Public Improvements be installed, or the City may obtain the funds under the Guarantee and complete the Public Improvements. The City will also be entitled to exercise any other rights available to it under applicable Laws.

#### Sec. 6.6 Inspection of Public Improvements; inspection fee.

The City Engineer will provide for inspection of the Public Improvements during their construction and ensure their satisfactory completion. If the City Engineer finds, upon inspection, that any one or more of the Public Improvements has not been constructed as required, the Developer will be responsible for properly completing the Public Improvements. A nonrefundable fee in the amount established in the City Fee Schedule must be paid to the City by the Developer for all inspections.

#### Sec. 6.7 Requirements for satisfactory completion of Public Improvements.

The City Council will not deem Public Improvements to be satisfactorily completed and will not reduce or release any Guarantee provided, if applicable, until the City Engineer has submitted a certificate to the City Manager stating that the required Public Improvements have been satisfactorily completed. The Public Improvements must then be free and clear of liens and encumbrances. Further, the Developer's engineer or surveyor must have submitted to the City Engineer a certified "as-built" survey plat of the Subdivision and all Public Improvements satisfactory to the City Engineer.

#### Sec. 6.8 Dedication of Public Improvements.

The City Council will accept Dedication of Public Improvements in the Subdivision by Resolution either: (1) when they are complete as provided in Section 6.7 for Public Improvements required to be completed pursuant to Section 6.1; or (2) when a Guarantee is provided to and accepted by the City if permitted under Section 6.2. The approval and endorsement of the Final Plat will not be deemed to constitute or imply acceptance by the City of any Dedication until a City Council Resolution to that effect has been made as provided in Section 3.4.13.

#### Sec. 6.9 Maintenance of Public Improvements.

The Developer shall maintain all Public Improvements for one year following acceptance of Dedication of all of the Public Improvements in the Subdivision by the City Council as provided in Section 6.8.

#### Sec. 6.10 Issuance of Certificates of Occupancy.

Certificates of occupancy for any Building in a Subdivision will not be issued until Dedication of all of the Public Improvements in the Subdivision has been accepted by the City as provided in Section 6.8 and until all such Public Improvements are complete and the requirements as to satisfactory completion have been met as provided in Section 6.7.

### **ARTICLE VII. VARIANCES**

#### Sec. 7.1. Planning Commission and City Council authority for granting variances.

The Planning Commission and City Council may grant variances to Developers and Owners from strict compliance with these Subdivision Regulations. A variance from the terms, standards, and criteria that pertain to Subdivision of land as authorized by these Subdivision Regulations may be granted, in whole, in part, or upon reasonable conditions, only upon a finding by the Planning Commission that:

- (a) The application to the particular piece of Property would create an unnecessary hardship.
- (b) Such conditions are peculiar to the particular piece of Property involved.
- (c) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these Subdivision Regulations.
- (d) The variance, if granted, would be the minimum action necessary to alleviate the unnecessary hardship.

Variances may be granted only by a majority vote of the Planning Commission at a meeting at which there is a quorum of the Planning Commission elect.

#### Sec. 7.2 Conditions for variances.

In approving variances, the Planning Commission or City Council may require such conditions as will, in their judgment, substantially secure the purposes for these Subdivision Regulations set out in Section 1.2.

#### Sec. 7.3 Procedure for variances.

A request for a variance to any requirement within these Subdivision Regulations as to a proposed plat must be submitted in writing with the Preliminary Plat application or the Final Plat application and as to a Deed Approval with the Deed Approval application. The request for the variance must state fully the grounds for the application and all of the facts relied on by the Developer in requesting the variance. The variance, if granted, will be incorporated into the Final Plat, Deed, or Affidavit, as the case may be, with no further action or request required.

### **ARTICLE VIII. ENFORCEMENT, VIOLATIONS, PENALTIES, AND APPEALS**

#### DIVISION 1 GENERALLY

##### Sec. 8.1.1 Evasion of regulations prohibited.

The Subdivision of any land for the purpose of sale, transfer, lease, or development with the intent of evading these Subdivision Regulations is prohibited. All Subdivision of land in the City is subject to these Subdivision Regulations.



### Sec. 8.1.2 Building Permits and Certificates of Occupancy.

In compliance with the City's policy as provided in Section 1.4(e), the City shall not issue Building Permits or Certificates of Occupancy for any Property for which Subdivision is required pursuant to these Subdivision Regulations until such Subdivision is approved and recorded as provided in these Subdivision Regulations. The City shall not issue Building Permits or Certificates of Occupancy for any Property sold or transferred in violation of these Subdivision Regulations.

## DIVISION 2 DEED APPROVALS REQUIRED.

### Sec. 8.2.1 Deed Approval required in general.

In compliance with the City's policy as provided in Section 1.4(b), it is unlawful for any Developer or Owner(s) to take any action with respect to land as though a Lot Line Adjustment, Lot Split, or Combined Lot has been effectuated until a Deed(s) or Affidavit(s) is approved and recorded as provided in Article IV, regardless of whether all of the applicable land is owned by the same Owner(s) or not.

### Sec. 8.2.2 Lot Line Adjustments specifically.

A Lot Line Adjustment between two or more Lots or Building Sites will not exist until a Deed or Affidavit effectuating the Lot Line Adjustment is approved and recorded as provided in Article IV. Any action taken with respect to such land as though a Lot Line Adjustment was approved and recorded is unlawful.

### Sec. 8.2.3 Lot Splits specifically.

One Lot will not be considered split into two Lots until a Deed or Affidavit effectuating the Lot Split is approved and recorded as provided in Article IV. Any action taken with respect to such land as though a Lot Split was approved and recorded is unlawful.

### Sec. 8.2.4 Combined Lots specifically.

A Combined Lot will not exist and the regulations in the Zoning Code applicable to Combined Lots will not apply to abutting Lots, Building Sites, and/or Tracts until a Deed or Affidavit creating the Combined Lot is approved and recorded as provided in Article IV. Any action taken with respect to such land as though a Combined Lot was approved and recorded is unlawful.

## DIVISION 3 PENALTIES

### Sec. 8.3.1 Civil enforcement.

Any violation of these Subdivision Regulations will be deemed a misdemeanor. Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these

Subdivision Regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation of these Subdivision Regulations, and to prevent illegal occupancy of a Building or Structure or other premises.

#### Sec. 8.3.2 Public nuisance.

Any Building or Structure constructed on land that is required to be subdivided pursuant to these Subdivision Regulations but that is not so properly subdivided is unauthorized. All such Buildings or Structures are hereby declared to be public nuisances, and they may be dealt with and abated as such. Any persons maintaining any such nuisance will be guilty of an offense, and each day upon which any such nuisance continues is a separate offense.

### DIVISION 4 APPEALS

#### Sec. 8.4.1 Appeals from decisions by City Manager.

Appeals from any decision by the City Manager may be taken to the Planning Commission and City Council by any person aggrieved. Such appeal must be taken within three business days from the date of such decision by filing with the City Manager and the City Clerk a notice of appeal, specifying the grounds of the appeal. The City Manager shall forthwith transmit to the Planning Commission certified copies of all papers constituting the record of the matter involved in the appeal.

#### Sec. 8.4.2 Appeals from decisions by Planning Commission or City Council.

Appeals from any decision by the Planning Commission or City Council may be taken in the manner provided by Law.