

CITY OF FORNEY, TEXAS

ORDINANCE NO. 19- _____

AN ORDINANCE OF THE CITY OF FORNEY, TEXAS, AMENDING CHAPTER 10, ARTICLE 10.02 OF THE CODE OF ORDINANCES OF THE CITY OF FORNEY, TEXAS, PERTINENT SECTIONS OF EXHIBIT A, SUBDIVISION ORDINANCE AND AMENDING THE COMPREHENSIVE ZONING ORDINANCE, ORDINANCE NO. 1085, AS AMENDED, TO COMPLY WITH HB 3167 PASSED BY THE 86TH LEGISLATURE OF THE STATE OF TEXAS; AMENDING THE CITY'S APPROVAL PROCEDURE FOR LAND DEVELOPMENT APPLICATIONS; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 86th Legislature of the State of Texas passed HB 3167 which was signed by Governor Abbott on June 14, 2019, with an effective date of September 1, 2019 (the "Act"); and

WHEREAS, the City Council desires to amend the Ordinances to amend the approval procedures for land development applications to ensure compliance with state law.

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

Section 1. FINDINGS INCORPORATED

All of the above premises are found to be true and correct factual and legislative determinations of the City of Forney and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. AMENDMENT OF SUBDIVISION ORDINANCE

From and after the effective date of this Ordinance, Chapter 10, Article 10.02, Exhibit A, Subdivision Ordinance, of the Code of Ordinances of the City of Forney, Texas, is hereby amended with the following changes, which each pertinent part shall read in its entirety as follows:

Section 1.16: Definitions

1.16 For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). Definitions not expressly prescribed herein are to be determined in accordance with customary usage in municipal planning and engineering practices. The word "shall" is always mandatory, while the word "may" is merely directory.

- a. Addition. A lot, tract or parcel of land lying within the corporate boundaries of the City or its extraterritorial jurisdiction which is intended for the purpose of development.

- b. Administrative Officers. Any office referred to in this Ordinance by title (i.e., City Manager, City Attorney, City Secretary, Building Official, City Engineer, Director of Public Works, etc.), shall be the person so retained in this position by the City, or his duly authorized representative (i.e., designee). This definition shall also include engineering, planning, legal and/or other consultants retained by the City to supplement or support existing City staff, as deemed appropriate by the City.
- c. Alley. A minor public right-of-way not intended to provide the primary means of access to abutting lots, which is used primarily for vehicular service access to the back or sides of properties otherwise abutting on a street. The length of an alley segment is to be measured from the right-of-way lines (i.e., alley entrance points) of the streets from which the alley is provided access (including any turnouts).
- d. Amended Plat. A revised plat correcting errors or making minor changes to the original recorded final plat. Also termed “amending plat.”
- e. Amenity. An improvement to be dedicated to the public or to the common ownership of the lot owners of the subdivision and providing an aesthetic, recreational or other benefit, other than those prescribed by this Ordinance.
- f. Base Flood. The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- g. Block Length. For a residential subdivision, that distance measured along the centerline of the street from the intersection center point of one through street (i.e., not a cul-de-sac or dead-end/looped street) to the intersecting center point of another; or to the midpoint of a cul-de-sac. Also termed “street length.”
- h. Bond. Any form of a surety bond in an amount and form satisfactory to the City.
- i. Building Setback Line. The line within a property defining the minimum horizontal distance between a building or other structure and the adjacent street (or property) line.
- j. Capital Improvements Program (CIP). The official proposed schedule of all future public projects listed together with cost estimates and the anticipated means of financing each project, as adopted by City Council.
- k. City. The City of Forney, Texas, together with all its governing and operating bodies.
- l. City Engineer. “City Engineer” shall apply only to such registered professional engineer, or firm of registered professional consulting engineers, that has been specifically employed by the City to assist in engineering-related matters.
- m. City Manager. The person holding the position of City Manager, as appointed by the City Council and according to the City Charter.
- n. Commission. The Planning and Zoning Commission of the City.

- o. Comprehensive Plan. The phrase “Comprehensive Plan” shall mean the Comprehensive Plan of the City and adjoining areas as adopted by the City Council and the City Planning and Zoning Commission, including all its revisions. This Plan indicates the general locations recommended for various land uses, transportation routes, public and private buildings, streets, parks, water/wastewater facilities, and other public and private developments and improvements.
- p. Concept Plan. A sketch drawing of initial development ideas superimposed upon a topographic map to indicate generally the plan of development, and to serve as a working base for noting and incorporating suggestions of the City Manager (or designee), Planning and Zoning Commission, City Engineer or others who are consulted prior to the preparation of the preliminary plat.
- q. Construction Plans or Drawings. The maps or drawings accompanying a plat and showing the specific location and design of public improvements to be installed in the subdivision or addition in accordance with the requirements of the City as a condition of approval of the plat.
- r. Contiguous. Lots are contiguous when at least one boundary line of one lot touches a boundary line, or lines, of another lot.
- s. Council. The duly elected governing body of the City of Forney, Texas.
- t. Cul-De-Sac. A street having only one outlet to another street, and terminated on the opposite end by a vehicular turnaround (“bulb”). The length of a cul-de-sac is to be measured from the intersection center point of the adjoining through street to the midpoint of the cul-de-sac bulb.
- u. Dead-End Street. A street, other than a cul-de-sac, with only one outlet.
- v. Easement. The word “easement” shall mean an area for restricted use on private property upon which the City and/or a public utility shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs and/or other improvements or growths which in any way endanger or interfere with the construction, maintenance and/or efficiency of its respective systems within said easements. Public utilities shall at all times have the right of ingress and egress to and from and upon easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring the permission of anyone.
- w. EDS. The City of Forney's Engineering Design Standards for the construction of subdivision improvements. (See Appendix A of this Ordinance on file in the office of the City Secretary.)
- x. Engineering Design Standards (EDS). Those standards and specifications established by the City to ensure proper installation of the improvements required by this Ordinance. (See Appendix A of this Ordinance on file in the office of the City Secretary.)
- y. Escrow. A deposit of cash with the City in accordance with City policies.

z. Filing Date. The filing date for a plan or development plat is when the administrative review process is completed (including the provision of all necessary forms, fees and copies) and the plan or development plat is placed on the agenda for a Planning and Zoning Commission meeting.

aa. Final Plat (also "Record Plat" or "File Plat"). The one official and authentic map of any given subdivision of land prepared from actual field measurement and staking of all identifiable points by a surveyor or engineer, with the subdivision location referenced to a survey corner, and with all boundaries, corners and curves of the land division sufficiently described so that they can be reproduced without additional references. The final plat of any lot, tract or parcel of land shall be recorded in the records of Kaufman County, Texas. An amended plat is also a final plat.

bb. Improvement or Developer Agreement. A contract entered into by the developer and the City, by which the developer promises to complete the required public improvements within the subdivision or addition within a specified time period following final plat approval.

cc. Land Study. A general layout plan for an area proposed for partial or complete subdivision. The land study shall show the proposed locations of land uses, streets, phasing of development, important physical features and other applicable information for the entire area to be subdivided.

dd. Land Planner. Persons, including surveyors or engineers, who possess and can demonstrate a valid proficiency in the planning of residential, commercial, industrial and other related developments, such proficiency often having been acquired by education in the field of landscape architecture or other specialized planning curriculum, and/or by actual experience and practice in the field of land planning, and who may be certified as a member of the American Institute of Certified Planners (AICP).

ee. Lot (also Lot of Record). A divided or undivided tract or parcel of land having frontage on a public street, and which is or which may in the future be, offered for sale, conveyance, transfer or improvement; which is designated as a distinct and separate tract; and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record.

ff. Major Plat. All plats not classified as minor plats, including but not limited to subdivisions of more than four (4) lots, or any plat that requires the construction of a new street (or portion thereof) or the extension of a municipal facility as required by this or any other City Ordinance.

gg. Minor Plat. A subdivision resulting in four (4) or fewer lots, provided that the plat is for conveyance purposes only (i.e., sale of the property with no development/construction proposed), that the plat does not create any new easements for public facilities, or that the construction/development of said subdivision will not require the construction of any new street (or portion thereof) or the extension of any municipal facilities to serve any lot within the subdivision. Any property to be subdivided using a minor plat shall already be served by all required City utilities and services. If the development of any lot within the proposed subdivision will require the

construction of a new street (or portion thereof) or a public improvement (e.g., water or sewer line, drainage facility, required screening wall, etc.), then the plat shall be classified as a major plat.

hh. On-Site Facilities or Improvements. “On-site” shall mean those existing or proposed facilities or improvements constructed within the property boundaries of the plat. “On-site” shall also mean those existing or proposed facilities required to be constructed or improved immediately adjacent to the property and which are required to serve the development. These include streets, alleys, water lines, sewer lines, storm drainage facilities, curbs and gutters and any other construction or reconstruction needed to serve the property.

ii. Off-Site Facilities or Improvements. “Off-site” facilities shall mean those facilities or improvements that are required to serve the site but that are not located within the boundaries of the plat. These include oversizing for streets, sewer lines, water lines and storm drainage facilities, as well as the excess capacity of facilities such as water storage tanks and wastewater treatment plants available for new development.

jj. Overlength Street (or Cul-De-Sac or Alley). A street segment (or a cul-de-sac or alley segment) which exceeds the maximum length allowed by this Ordinance (see [Section 3.1](#)), as measured along the centerline of the street from the intersection center point of one through street (i.e., not a cul-de-sac or dead-end/looped street) to the intersecting center point of another (or to the midpoint of a cul-de-sac, or for an alley segment, to the right-of-way lines (i.e., alley entrance points) of the streets from which the alley is provided access, including turnouts).

kk. Pavement Width. The portion of a street that is available for vehicular traffic. Where curbs are used, it is the portion from the back of one curb to the back of the opposite curb.

ll. Perimeter Street. Any existing or planned street which abuts the subdivision or addition to be platted.

mm. Person. Any individual, association, firm, corporation, governmental agency or political subdivision.

nn. Plan. A Plan shall have the same meaning as a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan.

oo. Planning and Zoning Commission. The Planning and Zoning Commission of the City of Forney, Texas. Same as “Commission.”

pp. Preliminary Plat. The graphic expression of the proposed overall plan for subdividing, improving and developing a tract, shown by superimposing a scale drawing of the proposed land division upon a topographic map and showing in plan view all existing and proposed drainage features and facilities, street layout, direction of curb flow and other pertinent features, with such notations as are sufficient to substantially identify the general scope and detail of the proposed development.

qq. Replating. “Replating” (or to “replat”) is the resubdivision of any part or all of a block or blocks of a previously platted subdivision, addition, lot or tract.

rr. Right-of-Way. A parcel of land occupied or intended to be occupied by a street or alley. Where appropriate, “right-of-way” may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, oil and/or gas facilities; water or sanitary/storm sewer facilities; or for any other special use. The use of right-of-way shall also include parkways and medians outside of the paved portion of the street. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way, and shall not be included within the dimensions or areas of such lots or parcels.

ss. Street. A right-of-way, however designated, which provides vehicular access to adjacent land. Streets may be of the following categories:

1. Major thoroughfares (arterial streets, primary thoroughfares, etc.) provide vehicular movement from one neighborhood to another, to distant points within the urban area, and/or to freeways or highways leading to other communities.
2. Collector streets (“feeder” streets, secondary thoroughfares, etc.) provide vehicular circulation within neighborhoods and from local streets to major thoroughfares.
3. Local residential streets (minor thoroughfares or streets, etc.) are primarily for providing direct vehicular access to abutting residential property.

tt. Street Improvements. For the purpose of this Ordinance “street improvements” mean any street or thoroughfare, together with all appurtenances required by City regulations to be provided with such street or thoroughfare, and including but not limited to sidewalks, drainage facilities to be situated in the right-of-way for such street or thoroughfare, traffic-control devices, street lights and street signs, for which facilities the City will ultimately assume the responsibility for maintenance and operation.

uu. Street Right-of-Way. The width of the right-of-way for any roadway is the shortest perpendicular distance between the lines which delineate the rights-of-way of the street.

vv. Subdivider. Any person or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision as that term is defined herein. In any event, the term “subdivider” shall be restricted to include only the owner, equitable owner, or authorized agent of such owner or equitable owner, such as a developer of land sought to be subdivided.

ww. Subdivision (also Addition). A division or redivision of any tract of land situated within the corporate limits, or within the extraterritorial jurisdiction of such limits, for the purpose of transfer of ownership; layout of any subdivision of any tract of land or addition; or for the layout of building lots or streets, alleys or other components for public use or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

xx. Substandard Street. An existing street or road that does not meet the minimum specifications in the Standard Street Specifications, and which is not constructed to the ultimate configuration for the type of roadway it is designated for on the City's Thoroughfare Plan. A standard street is a street or road that meets or exceeds said standard specifications and its designation on the City's Thoroughfare Plan.

yy. Surveyor. A licensed land surveyor or a registered public surveyor as authorized by State statutes to practice the profession of surveying.

zz. Temporary Improvements. Improvements built and maintained by the property owner or subdivider that are needed to remedy a circumstance that is temporary in nature (e.g., a temporary drainage easement or erosion control device), and that will be removed upon completion of the subdivision or shortly thereafter (i.e., is not intended to be permanent).

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Section 2.2: Statutory Procedures

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e. Action by Planning and Zoning Commission or City Council. The Planning and Zoning Commission shall recommend approval, approval with conditions, or disapproval of a land study, plan, or any type of plat application within thirty (30) days of the official filing date. All plans or plats for a major subdivision shall be considered by the Planning and Zoning Commission and considered for final approval by the City Council of Forney.

f. Simultaneous Submission of Plats. In the event that an applicant submits preliminary and final plat applications simultaneously, as provided in Section 2.4(c), the City Manager (or designee) shall schedule both plat applications for consideration by the Planning and Zoning Commission within thirty (30) days of the official filing date. The applicant may request in writing an extension of the thirty (30) day period for a period up to an additional thirty (30) days, which is extended upon the approval of the Planning and Zoning Commission.

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Section 2.3: Procedures And Submission Requirements For Land Study Approval

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f. Procedures and Conditions. The required number of copies of the proposed land study shall be submitted no later than twenty-one (21) calendar days before the Planning and Zoning Commission meeting at which it shall be considered, accompanied by an application form, the appropriate filing fee (per the City's submission guidelines, as may be amended from time to time), and any other submission materials determined necessary by the City Manager (or designee).

The Planning and Zoning Commission and the City Council shall review and evaluate the land study to determine whether the proposed development conforms to the Comprehensive Plan and applicable development regulations of the City. The City Council or the Planning and Zoning Commission may require additional information to be submitted to supplement the initial study. Based upon the land study, the Planning and Zoning Commission may recommend, and the City Council may require as a condition of preliminary plat or development plat approval, that the land to be platted be developed in phases, that the proposed phases be developed in a different sequence or include more or less land, or that all phases designated be accompanied by a schedule of public improvements to adequately serve the development under the development standards of the City's Subdivision Ordinance.

A land study may be submitted for review concurrently with a preliminary plat, provided that the respective requirements for both types of applications are satisfied (per Sections 2.3 and 2.4). The preliminary plat will be placed on an agenda for a Planning and Zoning Commission meeting within thirty (30) days from its filing date. This may result in the preliminary plat being placed on a subsequent agenda of the Planning and Zoning Commission.

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Section 2.4: Procedures And Submission Requirements For Preliminary Plat Approval

a. Upon reaching conclusions at the pre-application conference (as described in Section 2.1 above) regarding a general development program and objectives and upon approval of the land study (if required), the subdivider shall have prepared a preliminary plat together with general (i.e., preliminary) utility plans and other supplementary materials, as specified by the City. The preliminary plat shall be submitted to the City of Forney with the appropriate filing fee and with a written application form at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant has requested in writing and the Planning and Zoning Commission has approved an extension up to an additional thirty (30) days) prior to the Planning and Zoning Commission meeting at which it is to be considered. At the time the developer files a preliminary plat application with the City Manager (or designee), he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.13.

The preliminary plat shall be in accordance with the City's Zoning Ordinance (including the proper zoning for the intended use) if located within the City's corporate limits, and it shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The preliminary plat shall be prepared by a registered/certified civil engineer, land planner or surveyor. The preliminary plat may constitute only that portion of the approved land study which the subdivider proposes to construct and record; provided, however, that such portion conforms to all the requirements of these regulations.

b. Copies/prints of the preliminary plat for the proposed subdivision, drawn on sheets eighteen inches by twenty-two inches (18" x 22") and drawn to a known engineering scale of not smaller than one hundred feet to the inch (1" = 100') or a larger scale, shall be submitted in the quantity as specified by the City (as provided in the City's plat submission guidelines, as may be amended from time to time). In cases of large developments which would exceed the dimensions of the sheet at one hundred foot (100) scale, preliminary plats may be on multiple sheets or to another known engineering scale, as approved by the City Manager (or designee), and as acceptable for eventual filing at Kaufman County.

Preliminary plat applications which do not include the required data, a completed application form, the appropriate filing fee, the appropriate number of copies of the plat and/or other required information will be considered incomplete, shall not be accepted for submission by the City, and shall not be scheduled on a Planning and Zoning Commission agenda until the proper information is provided to City staff. Additional copies of the preliminary plat may be required if revisions or corrections are necessary. A preliminary plat, if not preceded by a land study showing phasing of the development, shall include all contiguous property under the ownership or control of the applicant. It may contain more than one phase which if so, shall be clearly identified.

c. The subdivider may choose to submit a final plat for review concurrently with the preliminary plat. In such case, the City may schedule concurrent review of both plats, provided that all required information and other items are submitted for both plats (including full construction plans and the appropriate assurances for the completion of all improvements, as per Section 6). As soon as the plats are considered to be filed, they will be placed on an agenda of the Planning and Zoning Commission within thirty (30) days for consideration unless the applicant requests an extension up to an additional thirty (30) days, which is subsequently approved by the Planning and Zoning Commission.

d. Following review of the preliminary plat and other materials submitted in conformity to these regulations, and following discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be installed, the Planning and Zoning Commission shall act upon the preliminary plat as it was submitted, or as modified. If the Commission recommends approval, the preliminary plat shall be placed on the next possible City Council agenda for consideration. The City Council shall take action on the preliminary plat within thirty (30) days of the Planning and Zoning Commission's action.

e. Approval of a preliminary plat by City Council, upon favorable recommendation by the Planning and Zoning Commission, shall be deemed approval of the street and lot layout shown on the preliminary plat, and to the preparation of the final or record plat (and associated engineering/construction plans for public improvements). Except as provided for herein, approval of the preliminary plat shall constitute conditional approval of the final plat when all conditions of approval and as provided in this Section have been met. Upon approval by the City Council, the City Council shall endorse the plat with a certificate indicating the approval, signed by the Mayor or presiding officer and attested by the City Secretary or her designee.

f. If the Planning and Zoning Commission votes to conditionally approve or disapprove a preliminary plat application, the Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for the disapproval that clearly articulate each specific condition for the conditional approval or disapproval. Each condition or reason specified in the statement must be directly related to the requirements in this ordinance or related state law and include a citation to the law, including a statute or municipal ordinance that is the basis for the conditional approval or disapproval. The statement condition or reasons shall not be arbitrary in nature.

After the conditional approval or disapproval of the application, the applicant may submit a written response to the Planning and Zoning Commission that satisfies each condition for the conditional approval or remedies each reason given for the disapproval. The applicant shall not have a deadline for the submission of a response. Not later than the 15th day after a response is submitted by the applicant the Planning and Zoning Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved application.

If the Planning and Zoning Commission conditionally approves or disapproves the application following review of the response, the Planning and Zoning Commission shall follow the same steps outlined earlier in this subsection (f). The applicant may appeal this decision to the City Council by filing a Notice of Appeal in the office of the City Manager (or designee) no later than ten (10) days after the date upon which the Commission disapproved the application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than thirty (30) days after the date upon which the Notice of Appeal was filed. The City Council may affirm or reverse the decision of the Commission. Affirmation of the Commission's recommendation shall require a simple majority vote of the City Council members present. The City Council may reverse the Commission's decision to deny an application (upon appeal by the applicant/property owner) upon a three-quarters vote of the full City Council (i.e., three-quarters of all Council members).

If the Planning and Zoning Commission determines that the response from the applicant adequately addresses each condition of the conditional approval or each reason for the disapproval, the plat shall be recommended for approval and forwarded to the City Council for consideration.

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Section 2.5: Procedures and Submission Requirements for Final Plat Approval

a. The final plat shall be in accordance with the preliminary plat, as approved, and shall reflect/incorporate all applicable conditions, changes, directions and additions imposed by the Planning and Zoning Commission and City Council upon the preliminary plat. The final plat shall not be approved by the City until detailed engineering and construction plans for all required public improvements have been prepared by the applicant and submitted to the City for reviewed/approval by the City Engineer. The final plat shall not be submitted prior to approval of the preliminary plat (see Section 2.4(c) for exception). At the time the developer files a final plat application

with the City Manager (or designee), he shall also file a certificate showing that all taxes have been paid on the property to be subdivided, and that no delinquent taxes exist against the property in accordance with Section 1.13.

b. The final plat shall be in accordance with the City's Zoning Ordinance (including the proper zoning for the intended use) if located within the City's corporate limits, and it shall be in accordance with the City's Comprehensive Plan, including all adopted water, sewer, storm drainage, future land use, park/recreation/open space and thoroughfare plans. The final plat shall be prepared by a registered/certified civil engineer, land planner or surveyor and shall include all land area that is proposed for immediate development.

c. The required number of copies of the proposed final plat (and associated engineering/construction plans) shall be submitted at least twenty-one (21) calendar days (but no more than thirty calendar days, unless the applicant requests an extension up to an additional thirty (30) days, which is subsequently approved by the Planning and Zoning Commission) before the Planning and Zoning Commission meeting at which it shall be considered, accompanied by an application form and a filing fee (per the City's plat submission guidelines, as may be amended from time to time). The City Manager (or designee) shall check the plat to ascertain its compliance with these regulations and shall report any points of noncompliance to the applicant. If revisions are necessary, the applicant/developer or his engineer shall submit additional corrected copies of the properly completed final plat to the City Manager (or designee) for final action no later than seven (7) days prior to the Commission meeting. Failure to submit corrected copies back to the City in time shall be reason to determine the submittal as incomplete and as reason to not schedule the final plat on the Commission's agenda or to disapprove the final plat application. If, upon resubmission of the final plat application to the City, the City Manager (or designee) determines that the application is still incomplete (i.e., not ripe for consideration), the application will be subject to disapproval.

The Planning and Zoning Commission shall recommend approval, conditional approval, or disapproval of the final plat within thirty (30) days of the official filing date. If the Commission recommends approval, the final plat shall be placed on the next possible City Council agenda for consideration. The City Council shall take action on the final plat within thirty (30) days of the Planning and Zoning Commission's action.

If the Planning and Zoning Commission votes to conditionally approve or disapprove a final plat application, the Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for the disapproval that clearly articulate each specific condition for the conditional approval or disapproval. Each condition or reason specified in the statement must be directly related to the requirements in this ordinance or related state law and include a citation to the law, including a statute or municipal ordinance that is the basis for the conditional approval or disapproval. The statement condition or reasons shall not be arbitrary in nature.

After the conditional approval or disapproval of the application, the applicant may submit a written response to the Planning and Zoning Commission that satisfies each condition for the conditional approval or remedies each reason given for the disapproval. The applicant shall not have a deadline for the submission of a response.

Not later than the 15th day after a response is submitted by the applicant the Planning and Zoning Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved application.

If the Planning and Zoning Commission conditionally approves or disapproves the application following review of the response, the Planning and Zoning Commission shall follow the same steps outlined earlier in this subsection (c). The applicant may appeal this decision to the City Council by filing a Notice of Appeal in the office of the City Manager (or designee) no later than ten (10) days after the date upon which the Commission disapproved the application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than thirty (30) days after the date upon which the Notice of Appeal was filed. The City Council may affirm or reverse the decision of the Commission. Affirmation of the Commission's recommendation shall require a simple majority vote of the City Council members present. The City Council may reverse the Commission's decision to deny an application (upon appeal by the applicant/property owner) upon a three-quarters vote of the full City Council (i.e., three-quarters of all Council members).

If the Planning and Zoning Commission determines that the response from the applicant adequately addresses each condition of the conditional approval or each reason for the disapproval, the plat shall be recommended for approval and forwarded to the City Council for consideration.

Upon final plat approval and following construction of all required public improvements (or provision of appropriate surety, if applicable), the developer/applicant shall return copies of the final plat, as approved, with any other required documents and necessary fees attached thereto to the City Manager (or designee), in accordance with requirements established by the City. All easements shall be included on the plat (including recording information for those easements that are filed as separate instruments) as required by utility companies and/or the City of Forney prior to filing, and a copy of letters from each applicable utility company shall be submitted to the City Manager (or designee) stating that the plat contains the proper easements. All necessary filing materials, including mylars, reductions and/or blue-line copies, as required by the County Clerk of Kaufman County, in addition to mylar copies and a computer disk containing the digital plat file(s) required by the City, shall be returned to the City Manager (or his/her designee) with the required fees. The City Manager (or his/her designee) shall file the final plat within thirty (30) working days at the office of the County Clerk of Kaufman County provided all requirements have been satisfied.

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Section 2.7: Development Plats

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h. Approval Procedure. The application for a development plat shall be submitted to the City in the same manner as a final plat (see Sections 2.5 and 2.6), and shall be approved, approved with conditions, or disapproved by the City Council following review and recommendation by the Planning and Zoning Commission in a similar

manner as a final plat. Upon approval, the development plat shall be filed at the County by the City Manager (or his/her designee) in the same manner as a final plat (see Section 2.5).

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Section 2.8: Replatting

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b. Replatting Without Vacating Preceding Plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

1. Is signed and acknowledged by only the owners of the property being replatted;
2. Is approved by the City Council, following consideration by the Planning and Zoning Commission; and
3. Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

If a proposed replat requires a variance or exception from the City's Subdivision Ordinance or any other rule or regulation, a public hearing must be held by the City Council.

If a proposed replat does not require a variance or exception and no public hearing is held, the City shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent tax roll of Kaufman County. The notice of the replat must include the zoning designation of the property after the replat and a telephone number and email address at the City that a property owner may use to contact the City about the replat.

c. Previous Requirements or Conditions of Approval Which Are Still Valid. In addition to compliance with (b) above, a replat without vacation of the preceding plat must conform to the requirements of this section if:

1. During the preceding five (5) years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two (2) residential units per lot; or
2. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units per lot.

d. Notice of the public hearing if required under (b) above shall be given before the fifteenth (15th) day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in Kaufman County. Notice of the public hearing shall also be given by written notice, with a copy of any requested

waivers/suspensions, sent to the owners, as documented on the most recently approved ad valorem tax roll of the City, of lots that are in the original subdivision and that are within two hundred (200) feet of the lot(s) to be replatted. In the case of a subdivision in the extraterritorial jurisdiction, the most recently approved County tax roll shall be used. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the City.

e. If the owners of twenty percent (20%) or more of the owners of the area of lots to whom notice is required to be given under Subsection (b) above when a public hearing is required, file with the City a written protest of the replatting before or at the public hearing, and if the replat requires a waiver/suspension as defined in Section 1.11, then approval of the replat will require the affirmative vote of at least three-fourths (3/4) of the City Council members present. For a legal protest, written instruments signed by the owners of at least twenty percent (20%) of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending two hundred feet (200) from that area, but within the original subdivision, must be filed with the City prior to the close of the public hearing. In computing the percentage of land area subject to the “20% rule” described above, the area of streets and alleys shall be included.

....

Section 3. AMENDMENT OF ZONING ORDINANCE

From and after the effective date of this Ordinance, the City of Forney Comprehensive Zoning Ordinance, Ordinance No. 1085, as amended, is hereby amended with the following changes, which each pertinent part shall read in its entirety as follows:

Section 12 Concept Plan and Site Plan Review Processes

....

12.9 Approval Process and Revisions:

....

C. Action by the Planning and Zoning Commission and the City Council - All concept plan and site plan applications shall be reviewed by the Planning and Zoning Commission, and if in conformance with the provisions of this Ordinance and all other applicable regulations and codes of the City, they shall then be considered for approval by the City Council. The City Manager, or his/her designee, shall schedule consideration of the concept plan or site plan on the regular agenda of the Planning and Zoning Commission within thirty (30) calendar days after the submission is received (or, in the case of an incomplete submission, after the submission is deemed complete). The Planning and Zoning Commission shall review the concept plan or site plan and shall recommend approval, approval with conditions, or disapproval of the concept plan or site plan. If the Planning and Zoning Commission recommends approval of the plan, then it will be forwarded to the City Council for consideration within thirty (30) calendar days of the Planning and Zoning Commission action. If the Planning and Zoning Commission

recommends approval with conditions or disapproval of a plan application, the Commission shall provide the applicant a written statement of the conditions for the conditional approval or reasons for the disapproval that clearly articulate each specific condition for the conditional approval or disapproval. Each condition or reason specified in the statement must be directly related to the requirements in this ordinance or related state law and include a citation to the law, including a statute or municipal ordinance that is the basis for the conditional approval or disapproval. The statement condition or reasons shall not be arbitrary in nature.

After the conditional approval or disapproval of the application, the applicant may submit a written response to the Planning and Zoning Commission that satisfies each condition for the conditional approval or remedies each reason given for the disapproval. The applicant shall not have a deadline for the submission of a response. Not later than the 15th day after a response is submitted by the applicant the Planning and Zoning Commission shall determine whether to approve or disapprove the applicant's previously conditionally approved or disapproved application.

If the Planning and Zoning Commission conditionally approves or disapproves the application following review of the response, the Planning and Zoning Commission shall follow the same steps outlined earlier in this subsection (C). The applicant may appeal this decision to the City Council by filing a Notice of Appeal in the office of the City Manager (or designee) no later than ten (10) days after the date upon which the Commission disapproved the application. The Notice of Appeal shall set forth in clear and concise fashion the basis for the appeal. The City Council shall consider the appeal at a public meeting no later than thirty (30) days after the date upon which the Notice of Appeal was filed. The City Council may affirm or reverse the decision of the Commission. Affirmation of the Commission's recommendation shall require a simple majority vote of the City Council members present. The City Council may reverse the Commission's decision to deny an application (upon appeal by the applicant/property owner) upon a three-quarters vote of the full City Council (i.e., three-quarters of all Council members).

Section 4. SEVERABILITY CLAUSE

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 5. REPEALER CLAUSE

Any provision of any prior ordinance of the City, whether codified or uncoded, which is in conflict with any provision of this Ordinance, is hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City, whether codified or uncoded, which are not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 6. EFFECTIVE DATE

This Ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Forney, Texas, on this the _____ day of _____, 2019.

Mary Penn, Mayor

ATTEST:

Dorothy Brooks, City Secretary

APPROVED AS TO FORM AND LEGALITY:

Jon Thatcher, City Attorney