

City of Kingsville, Texas

AGENDA CITY COMMISSION

**THURSDAY, SEPTEMBER 18, 2014
SPECIAL MEETING**

**HONORABLE ROBERT H. ALCORN COMMISSION CHAMBERS
CITY HALL/200 EAST KLEBERG AVENUE
4:00 P.M.**

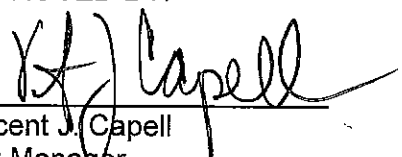
I. Preliminary Proceedings.

OPEN MEETING

INVOCATION / PLEDGE OF ALLEGIANCE – (Mayor Fugate)

**MINUTES OF PREVIOUS MEETING(S) – Required by Law
NONE**

APPROVED BY:



Vincent J. Capell
City Manager

II. Public Hearing - (Required by Law).¹

1. NONE.

III. Reports from Commission & Staff.² (City Manager's Staff Report Attached).

"At this time, the City Commission and Staff will report/update on all committee assignments which may include, but is not limited to the following: Planning & Zoning Commission, Zoning Board of Adjustments, Historical Board, Housing Authority Board, Library Board, Health Board, Tourism, Chamber of Commerce, Coastal Bend Council of Governments, Conner Museum, Keep Kingsville Beautiful, and Texas Municipal League. Staff reports include the following: Building & Development, Code Enforcement, Proposed Development Report; Accounting & Finance – Financial & Investment Information, Monthly Financial Reports; Police & Fire Department – Grant Update, Police & Fire Reports; Street Updates; Public Works- Building Maintenance, Construction Updates; Park Services - grant(s) update, miscellaneous park projects, Administration –Workshop Schedule, Interlocal Agreements, Public Information, Hotel Occupancy Report, Quiet Zone, Proclamations, Health Plan Update, Tax Increment Zone Presentation, Main Street Downtown, Chapter 59 project, Financial Advisor,. No formal action can be taken on these items at this time."

IV. Public Comment on Agenda Items³

1. Comments on all agenda and non-agenda items.

V.

Consent Agenda

Notice to the Public

The following items are of a routine or administrative nature. The Commission has been furnished with background and support material on each item, and/or it has been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by a Commission Member in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote.

CONSENT MOTIONS, RESOLUTIONS, ORDINANCES AND ORDINANCES FROM PREVIOUS MEETINGS:

(At this point the Commission will vote on all motions, resolutions and ordinances not removed for individual consideration)

1. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances Chapter V, Article 3, providing for an increase in water rates (as per rate study of 1%). (Director of Finance).
2. Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 budget for the refinancing costs for the 2014 limited tax refunding bonds. (Director of Finance).
3. Motion to approve final passage of an ordinance amending the Fiscal Year 2013-2014 budget for the City of Kingsville for deficit accounts at year end. (Director of Finance).
4. Motion to approve final passage of an ordinance amending the City of Kingsville Code of Ordinances by amending Chapter IX-General Regulations, Article 8-Parks and Recreation, providing for regulations and fees for the Parks and the L.E. Ramey Golf Course. (City Attorney).

REGULAR AGENDA

CONSIDERATION OF MOTIONS, RESOLUTIONS, AND ORDINANCES:

VI. Items for consideration by Commissioners.⁴

5. Workshop to discuss the proposed changes to City Planning ordinances regarding platting procedures that would be incorporated in the Code of Ordinances Chapter XV, Land Use, Article 3, Subdivisions, Sections 15-3-15 through 15-3-25. (Director of Planning & Development Services).

VII. Adjournment.


1. No person's comments shall exceed 5 minutes. Cannot be extended by Commission.
2. No person's comments shall exceed 5 minutes without permission of majority of Commission.
3. Comments are limited to 3 minutes per person. May be extended or permitted at other times in the meeting only with 5 affirmative Commission votes. The speaker must identify himself by name and address.
4. Items being considered by the Commission for action except citizens comments to the Mayor and Commission, no comment at this point without 5 affirmative votes of the Commission.

NOTICE

This City of Kingsville and Commission Chambers are wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 361/595-8002 or FAX 361/595-8024 or E-Mail mvalenzuela@cityofkingsville.com for further information. Braille Is Not Available. The City Commission reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by the Texas Government Code, Section 551-071 (Consultation with Attorney), 551-072 (Deliberations about Real Property), 551-073 Deliberations about Gifts and Donations), 551-074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551-086 (Certain Public Power Utilities: Competitive Matters), and 551-087 (Economic Development).

I, the undersigned authority do hereby certify that the Notice of Meeting was posted on the bulletin board in the City Hall, 200 East Kleberg, of the City of Kingsville, Texas, a place convenient and readily accessible to the general public at all times and said Notice was posted on the following date and time:

September 12, 2014 at 2:30 P.M. and remained so posted continuously for at least 72 hours proceeding the schedule time of said meeting.


Mary Valenzuela, City Secretary
City of Kingsville, Texas

This public notice was removed from the official posting board at the Kingsville City Hall on the following date and time: _____

By: _____
City Secretary's Office
City of Kingsville, Texas

MINUTES OF PREVIOUS MEETING(S)

CONSENT AGENDA

AGENDA ITEM #1

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES CHAPTER V, ARTICLE 3, WATER, PROVIDING FOR AN INCREASE IN WATER RATES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City previously contracted with HDR Engineering to perform a five-year water rate study and this is the fifth and final year of that study, which recommends a 1% increase in the water rates;

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Section 5-3-51 of Article 3: Water of Chapter V, Public Works, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

§ 5-3-51 MINIMUM MONTHLY CHARGE; RATE SCHEDULE.

(A) The following monthly rates shall be charged inside-city customers for the use of city water, provided that minimum monthly charges shall be made and bills rendered accordingly, under the standard water rates schedule as follows:

<i>Minimum Monthly Bill Water Service</i>					
<i>Meter Allowance Size</i>	<i>Single-Family Residential</i>	<i>Multi-Family Residential*</i>	<i>Commercial**</i>	<i>Irrigation</i>	<i>Gallons</i>
5/8 - 3/4 inch	12.42 12.02	\$0.00	\$0.00	\$0.00	0
5/8 - 3/4 inch	—	23.51 23.11	24.45 24.20	28.03 27.74	3,000
1 inch	25.43 25.17	28.60 28.11	30.90 30.50	38.15 37.77	5,000
1 1/4 inch	30.93 30.42	34.19 33.61	37.36 36.90	44.71 44.24	7,000

Minimum Monthly Bill Water Service					
Meter Allowance Size	Single-Family Residential	Multi-Family Residential*	Commercial**	Irrigation	Gallons
1½ inch	37.92 37.31	42.19 41.47	47.04 46.37	57.20 56.04	10,000
2 inch	55.29 54.72	58.19 57.31	66.39 65.72	82.23 81.11	16,000
3 inch	—	108.89 107.31	117.41 116.21	161.45 159.32	35,000
4 inch	—	175.59 173.32	181.05 179.25	265.67 263.40	60,000
6 inch	—	349.01 346.55	345.86 342.42	536.69 531.37	125,000
8 inch	---	---	659.46 652.91	---	200,000

* Includes apartments of 3-4 units.

** Includes hotels, motels, and apartments over 4 units.

(B) The following monthly rates shall be charged outside-city customers for the use of city water, provided that minimum monthly charges shall be made and bills rendered accordingly, under the standard water rates schedule as follows:

Minimum Monthly Bill Water Service					
Meter Allowance Size	Single-Family Residential	Multi-Family Residential*	Commercial**	Irrigation	Gallons
5/8 - ¾ inch	14.27 14.11	\$0.00	\$0.00	\$0.00	0
5/8 - ¾ inch	—	27.04 26.71	28.11 27.92	32.22 31.90	3,000
1 inch	29.25 29.01	32.90 32.57	35.54 35.15	40.38 39.92	5,000

Minimum Monthly Bill Water Service

Meter Allowance Size	Single-Family Residential	Multi-Family Residential*	Commercial**	Irrigation	Gallons
1¼ inch	35.56 35.20	39.32 38.96	42.96 42.60	50.87 50.51	7,000
1½ inch	43.59 43.23	48.52 48.16	54.08 53.72	65.79 65.43	10,000
2 inch	63.59 63.23	66.93 66.57	76.35 75.99	94.54 94.18	16,000
3 inch	—	125.22 124.86	135.02 134.66	185.65 185.29	35,000
4 inch	—	201.91 201.55	208.22 207.86	305.52 305.16	60,000
6 inch	—	401.35 400.99	397.72 397.36	617.17 616.81	125,000
8 inch	—	—	758.36 757.99	—	200,000

* Includes apartments of 3-4 units.

** Includes hotels, motels, and apartments over 4 units.

(C) For all water furnished in excess of the minimum allowance, the charge per 1,000 gallons of water delivered per month shall be shown as follows:

	In-side City	Outside City
Single-family residential:		
0 - 5,000 gallons	2.60 2.54	2.99 2.93
5,001 - 10,000 gallons	2.74 2.68	3.16 3.10
10,001 - 15,000 gallons	2.85 2.79	3.31 3.25
15,001 - 20,000 gallons	2.98 2.92	3.45 3.39
20,001 - 30,000 gallons	3.11 3.05	3.58 3.52

30,000 + gallons	4.02	4.64
Multi-family:	2.76	3.19
Commercial:	3.31	3.79
Irrigation	4.16	4.78

(D) These rates shall be applied to all water that passes through the meter regardless of whether the water is used or not.

(E) Industrial rates by special contract with the city.

(F) Naval Air Station Kingsville water rate, as determined by the most current water rate study, is set at \$1.75/1,000 gallons.

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 15th day of September, 2014.

PASSED AND APPROVED on this the 22nd day of September, 2014.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

AGENDA ITEM #2

ORDINANCE NO. 2014-_____

AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014 BUDGET FOR REFINANCING COSTS FOR THE 2014 LIMITED TAX REFUNDING BONDS.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2013-2014 budget be amended as follows:

**CITY OF KINGSVILLE
DEPARTMENT EXPENSES
BUDGET AMENDMENT**

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
Fund 051 Utility Fund					
<u>Capital</u>					
2		Unreserved Fund Balance	61002		<u>\$319,680</u>
					<u>\$319,680</u>
<u>Expenses</u>					
5-0000	Non-Departmental	Trnsfr To UF Debt Svc	35300	<u>\$319,680</u>	
				<u>\$319,680</u>	
Fund 012 UF Debt Service					
<u>Revenue</u>					
4-0000	Non-Departmental	Transfer From Fund 051	75010	<u>\$319,680</u>	
<u>Expenses</u>					
5-5100	Debt Service	PrfSrv-Bond Issue Cost/Fees	31404	<u>\$123,838</u>	
5-5100	Debt Service	Principle	61100	<u>\$140,000</u>	
5-5100	Debt Service	Interest	62100	<u>\$55,842</u>	
				<u>\$319,680</u>	

[To amend the FY14 budget as per the attached memo provided by the Finance Department for additional funding for costs associated with the 2014 Limited Tax Refunding Bonds.]

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 15th day of September, 2014.

PASSED AND APPROVED on this the _____ day of _____, 2014.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

CITY OF KINGSVILLE

TO: VINCENT CAPELL, CITY MANAGER
FROM: DEBORAH BALLI, FINANCE DIRECTOR
DATE: 09/02/14
SUBJECT: Budget Amendment-2014 Limited Tax Refunding Bonds

The attached budget amendment will provide for the costs associated with the 2014 Limited Tax Refunding Bonds issued this fiscal year. The bond issuance fees/costs for this refinance totaled \$123,838 and the first principal and interest payment for the 2014 refunding bonds totaled \$195,842. The attached budget amendment is requesting a total of \$319,680 from Utility Fund Balance be transferred to the Utility Fund Debt Service Fund to cover the bond issuance fees and the first principal and interest payment.

This Budget Amendment, given your approval, would be on the Commission Meeting Agenda September 15, 2014 for first reading.

Sincerely,

Deborah Balli

CC: Courtney Alvarez, City Attorney

AGENDA ITEM #3

ORDINANCE NO. 2014-

AN ORDINANCE AMENDING THE FISCAL YEAR 2013-2014 BUDGET FOR THE CITY OF KINGSVILLE FOR DEFICIT ACCOUNTS AT YEAR END.

WHEREAS, it was unforeseen when the budget was adopted that there would be a need for funding for these expenditures this fiscal year.

I.

BE IT ORDAINED by the City Commission of the City of Kingsville that the Fiscal Year 2013-2014 budget be amended as follows:

**CITY OF KINGSVILLE
DEPARTMENT EXPENSES
BUDGET AMENDMENT**

Dept. No.	Department Name:	Account Name:	Account Number:	Budget Increase	Budget Decrease
Fund 001 General Fund					
<u>Capital</u>					
2		Unreserved Fund Balance	61002		<u>\$32,212</u>
					<u>\$32,212</u>
<u>Expenses</u>					
5-0000	Non-Departmental	Transfer Out to Fund 064	39464	<u>\$28,212</u>	
5-1020	Municipal Building	Utilities	32300	<u>\$ 4,000</u>	
				<u>\$32,212</u>	
Fund 051 Utility Fund					
<u>Capital</u>					
2		Unreserved Fund Balance	61002		<u>\$68,550</u>
					<u>\$68,550</u>
<u>Expenses</u>					
5-0000	Non-Departmental	Transfer Out to Fund 054	39410	<u>\$58,000</u>	
5-6201	Collections	Postage & Freight	31300	<u>\$10,550</u>	
				<u>\$68,550</u>	
Fund 054 UF Capital Projects					
<u>Revenue</u>					
4-0000	Non-Departmental	Transfer From Fund 051	75010	<u>\$58,000</u>	
Fund 064 Utility Fund					
<u>Revenue</u>					
4-0000	Non-Departmental	Transfer From Fund 051	75010	<u>\$28,212</u>	

Expenses

5-1703 Landfill	Landfill Expansion	71400	\$28,212
			<u>\$28,212</u>

[To amend the FY14 budget as per the attached memo provided by the Finance Department for additional funding for deficit accounts at year end.]

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall not be codified but shall become effective on and after adoption and publication as required by law.

INTRODUCED on this the 15th day of September, 2014.

PASSED AND APPROVED on this the 22nd day of September, 2014.

EFFECTIVE DATE: _____

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

CITY OF KINGSVILLE

TO: VINCENT CAPELL, CITY MANAGER
FROM: DEBORAH BALLI, FINANCE DIRECTOR
DATE: 09/05/14
SUBJECT: FY 13-14 End of Year Budget Amendment

Attached is the ordinance to adopt the Fiscal Year End 2013-2014 End of Year Budget Amendment. If approved, this should provide funding for various departmental budgets in the City. A summary for each fund is provided below.

Fund 001-The attached budget amendment will provide for additional funding of \$4,000 to the Utilities line item in the Municipal Building Department and transfer funds to Fund 064 for the Landfill Expansion shortfall.

Fund 051-The attached budget amendment will provide additional postage and freight in the amount of \$10,550 to the Collections Department. An increase in A/R billings every month has caused an increase in postage & freight expenditures. This amendment will also transfer \$58,000 to Fund 054 to cover the shortfall of Transfers In.

Fund 054-The attached budget amendment will provide for \$58,000 Transfers In from Fund 051.

Fund 064-Landfill expansion costs originally budgeted for FY13-14 were not expected to occur until FY 14-15 and were rolled over into the FY14-15 budget. These are now expected to be occur in FY 13-14.

This Budget Amendment, given your approval, would be on the Commission Meeting Agenda September 15, 2014 for first reading.

Sincerely,

Deborah Balli

CC: Courtney Alvarez, City Attorney

AGENDA ITEM #4

ORDINANCE NO. 2014-_____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENEDING CHAPTER IX-GENERAL REGULATIONS, ARTICLE 8-PARKS AND RECREATION, PROVIDING FOR REGULATIONS AND FEES FOR THE PARKS AND THE L.E. RAMEY GOLF COURSE; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City and County have recently approved interlocal agreements to transfer operations and maintenance of all of the parks within the city limits and the L.E. Ramey Golf Course from the County to the City;

WHEREAS, the County of Kleberg and the City of Kingsville have previously entered into interlocal agreements to share expenses for various departments for the residents of their respective entities to reduce duplicitous services and expenses from having each entity provide the same services; and

WHEREAS, the approval of these interlocal agreements necessitate the City to enact regulations and fees for the properties covered under the interlocal agreements; and

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS;

I.

THAT Chapter IX- General Regulations, Article 8-Parks and Recreation, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

ARTICLE 8 PARKS AND RECREATION

PARKS

§ 9-8-1 ADMINISTRATION.

The administration and supervision of the parks and recreation department shall be the responsibility of the Parks and Recreation Manager or such other person as may be delegated or assigned such duties by the City Manager. The Parks and Recreation Manager may adopt, revise or rescind rules, regulations, departmental policies and procedures, create or alter recreational programs and take action regarding the day-to-day management and operations of the parks.

park buildings, and park facilities that do not conflict with this article, city commission-adopted policies, or federal or state laws. The Parks and Recreation Manager may make the following rules or take the following actions relating to the operation of the parks, park buildings, and park facilities:

- (A) The closing of all or part of a park or park facility because of weather or unsafe considerations that could endanger users or result in damage to the park, park building or park facility;
- (B) The reservation, scheduling, and use of parks, park facilities, and park buildings designed for or designated for specific uses;
- (C) Processing applications for special use permits and rental and use agreements;
- (D) Regulating the use of a park, park buildings, and park facilities for public, private and commercial purposes;
- (E) Any other rule or action reasonably necessary to manage and operate parks, park buildings, and park facilities.

§ 9-8-2 USER FEES.

The Parks & Recreation Manager is hereby authorized to collect fees for the use of all park facilities and equipment, such fees to be set from time to time by the City Commission. All fees charged for the use of facilities or equipment under this section shall be due and payable to the city. The free use of all facilities and equipment of the parks and recreation department for which rental or use fees are established is hereby prohibited to any individual or group or to any employee or officer of the city.

§ 9-8-3 RENTAL AND USER AGREEMENTS.

- (A) The Parks & Recreation Manager is empowered to prepare and sign user or rental agreements for the rental of facilities and/or equipment of the parks and recreation department. All user and rental agreements shall be signed by the Parks & Recreation Manager or the City Manager's designees under the following conditions:
 - a. The form of every instrument used for a particular purpose shall be approved by the City Attorney, provided, however, that this not

- require the signatory approval of the City Attorney on each document executed pursuant to this section; and
- b. All blanks are filled and information is provided as required by the form instrument.

Verbal arrangements to rent are not recognized under any circumstances, and this article and the contracts and agreements shall constitute the whole agreement between the parties and may not be altered unless done so in writing, signed by authorized representatives of both parties.

- (B) All agreements shall provide that parties contracting for the use of city facilities or other property shall hold the city harmless from any and all liability for any claim or claims as a result of use of the premises, equipment, or other property and shall indemnify the city in case of any claims resulting from their operations, use, or occurring as a result of their occupancy of the premises or use of property and all agreements shall specifically include such provisions.
- (C) The Parks & Recreation Manager shall apply any deposit against any amounts owed to the City for use of the property/facilities, and the Manager may refuse to enter into any agreement until any and all amounts due the City by any applicant or organization, or by any organization which the applicant has represented, have been paid in full.
- (D) The Manager, or his representatives or designee, may enter rented facilities for the purpose of ensuring that parties comply with the provisions of this article or the applicable agreement.
- (E) Clean up responsibility; failure to clean. Each applicant shall be responsible for the cleaning of the property/facility after use. Each applicant shall deposit with the city, at the time of the filing of the rental agreement or special use agreement, a cleaning deposit in the amount provided for the rental or use. In the event that the applicant shall fail to clean the property/facility as specified in their agreement after use, the city may charge the applicant for the actual cost of cleaning the property/facility and apply the cleaning deposit to the total cost of cleaning.
- (F) Damages from use. Each applicant shall deposit with the city, at the time of the filing of the rental agreement or special use agreement, a deposit in the amount as provided in their agreement. In the event that the city determines any damages upon inspection, the city may charge the applicant for the actual cost of the damages and apply the deposit to the total cost of the damages.

§ 9-8-4 RENTAL RATES.

The Parks & Recreation Manager shall prepare a schedule of rental rates for the use of facilities to include, but not be limited to, pavilions, shelters, picnic tables, swimming pools, recreation centers, and athletic fields. This schedule shall be submitted to the City Manager for approval, and shall be reviewed on an annual

basis. Such rates shall bear a reasonable relation to current rental rates charged for use of similar commercial facilities so as to neither be excessive or grossly deficient by comparison; provided, however, all such rates, except athletic field rental rates, shall not increase annually by more than twenty-five (25) per cent and rates for organized youth activities shall not exceed a level which would recover forty (40) per cent of the estimated total cost, nor shall new fees be created, without the City Commission's approval by motion or resolution. The approved schedule shall be filed with the City Secretary and copies shall be provided to the City Commission. Specific rates, however, may be adjusted at any time, and the Parks & Recreation Manager shall have the authority to negotiate special rates for special situations.

§ 9-8-5 CITY-OWNED EQUIPMENT.

Unless specifically stated in the agreement, the use of city-owned equipment is not included in the rental of a facility. The Parks & Recreation Manager shall prepare a list of city-owned equipment that is available for rent and recommend fees for its use. This fee schedule shall be submitted to the City Manager for approval. Such fees shall bear a reasonable relation to cost and depreciation of such equipment to allow the City to recover the acquisition, maintenance, or replacement costs of such equipment as necessary. The approved schedule shall be filed with the City Secretary and copies shall be provided to the City Commission.

§ 9-8-6 SPECIAL SERVICES.

The Parks & Recreation Manager shall prepare a list of special services that are available to the public. This list, including the recommended fees to be charged, shall be submitted to the City Manager for approval. The approved schedule shall be filed with the City Secretary and copies shall be provided to the City Commission.

§ 9-8-7 RECREATION FEES AND CHARGES.

The Parks & Recreation Manager shall prepare a list of recreation fees and charges for the public use of swimming pools, tennis courts, recreation centers, athletic fields, and other city-owned facilities. The schedule of fees and charges shall be submitted to the City Manager for approval, and be reviewed on an annual basis. Such rates shall bear a reasonable relation to current rental rates charged for similar commercial facilities so as to neither be excessive or grossly deficient by comparison; provided, however, all such fees, but not including adult softball and adult baseball league fees and charges for athletic fields, shall not increase annually by more than twenty-five (25) per cent and fees for organized youth activities shall not exceed a level which would recover forty (40) per cent of the estimated total cost, nor shall new fees be created, without the City Commission's approval by motion or resolution. The approved schedule shall

be filed with the City Secretary and copies shall be provided to the City Commission. Specific fees, however, may be adjusted at any time, and the Parks & Recreation Manager shall have the authority to negotiate special rates for special situations.

§ 9-8-8 SPECIAL USE PERMIT AGREEMENT FOR PARKS.

(A) Definition. Special use means any temporary gathering, rally, parade, festival, exhibit, display, entertainment, performance, or presentation held in a park, park building or park facility:

- a. In which more than 250 persons are expected to attend or participate; or
- b. That requires the placement or erection of one or more stages, booths, kiosks, tables, tents, barricades, or similar temporary structures or facilities to support or serve the special use; or
- c. That provides an alcoholic beverage for sale or consumption to the attendees.

A special use does not include persons gathering in a park to participate in or observe an athletic event held at the facilities designed for that purpose.

(B) Permit required. It is unlawful for any person to sponsor, hold, or conduct a special use without first receiving a permit from the city.

(C) Application process. A person seeking a permit for a special use in a city park, park building, or park facility must file an application with the city on the form provided for that purpose. A complete application must be filed not less than 30 days before the proposed date of the special use. The application must be signed by the person or persons responsible for the special use and must include the following information:

- a. A description of the use and the number and type of activities planned;
- b. The date and time of the special use;
- c. The number and types of vendors that will be present;
- d. The number of people expected to attend the special use;
- e. The arrangements that will be made for traffic control, security, additional restroom facilities, medical care, traffic control, and other services or facilities to support the special use;
- f. Whether there will be a charge for the special use and the basis upon which persons may or may not be admitted to the event if other than a charge;
- g. A description of any structures that will be used or erected to support the event;
- h. The circumstances under which any alcoholic beverages will be served or possessed;

- i. Any other information the city determines is necessary to evaluate the application and determine whether it meets the requirements of this article.
- (D) Fees and deposits. The city may establish and collect fees, deposits, and bonds to pay for or ensure the payment of costs incurred by the city relating to the use of a park, park building, or park facility for special use, including costs incurred for trash cleanup and removal, providing security, protection or medical care, for the administration of this article and for any other necessary or related services that arise directly from the use of the park, park building, or park facility. However, the city may not impose an additional fee on any applicant because of any constitutionally protected speech to be expressed using the special use that may create the need for additional security for persons opposing the speech expressed.
- (E) Permit decision. The city will make a decision on the permit application as promptly as possible after the applicant has provided all the information required by the application, including in the form and manner required, but in no other case later than ten business days after the date a complete application is submitted. The city will grant a permit unless the city finds one or more of the following exist:
- a. The application submitted is not sufficient or complete, provides false information, does not comply with this article or a regulation approved hereunder, or was not submitted with any required documents, fees or deposits;
 - b. The time or location for the proposed special use conflicts with the time or place of either a city sponsored event or a special use for which a permit has been issued or an application was already pending and there is insufficient space in the park, park building, or park facility to accommodate both events;
 - c. The applicant has failed to arrange or provide for adequate parking, trash cleanup, security, or other arrangements to ensure that the special use will be safe, secure and healthful for the participants thereof;
 - d. The special use does not comply with this article, state or federal laws or regulations, or a reasonable condition imposed by the Parks & Recreation Manager for issuance of the permit;
 - e. The applicant has held a prior special use for which the applicant failed to comply with a requirement of this article, failed to pay any required fees, charges, or deposits, failed to comply with all of the conditions of the permit, failed to pay or remedy damage incurred to public property, created a dangerous condition or situation, failed to comply with reasonable requests of the Manager, or otherwise violated the purpose or intent of this article;
 - f. The special event is being held primarily for commercial purposes;
 - g. The proposed use would present an unreasonable danger to the health or safety of the applicant, special use attendees, or other users of the park, park building, or park facility.

- (F) Conditions. The Manager may impose reasonable conditions on a special use permit issued to ensure compliance with city rules, regulations, and this article. The permit issued will contain in writing all the conditions and requirements that apply to the special use.
- (G) Denial of permits. IF the manager refuses to issue a permit as authorized by this article, the manager will specify in writing the provisions of this article upon which the refusal was based as well as any factual information in support of the determination.
- (H) Permit revocation. The manager may revoke a permit for a special use after it is issued because of the failure to comply with any condition or requirement of the permit or this article. The manager will give written notice of the revocation of the permit at the address of the applicant as listed on the application.
- (I) Appeals from denial or revocation. An applicant may appeal a permit denial, revocation, or imposition of conditions by filing a written appeal to the office of the City Manager within three days of the mailing of the appealable event.

§ 9-8-9 PROHIBITION OF CAMPING AND OTHER ACTIVITIES.

- (A) Definitions.
 - a. Camping: Occupying a site as a dwelling place for any length of time, whether in a vehicle, tent or improvised shelter, sleeping bag or without a shelter. Occupation of a site under the circumstances above for more than two (2) hours at any time during the period from midnight to sunrise shall be presumed to be overnight camping.
 - b. Campfires: Any open fire composed of any material in a fire pit or on the ground, except for those fires contained in a barbecue pit constructed and maintained by the City or in a portable barbecue pit or similar device designed for the preparation of food.
 - c. Person: Any individual or group of individuals.
 - d. Manager: The Manager of the Parks & Recreation Department.
- (B) Prohibition. Unless otherwise provided in this section, it is unlawful for any person to camp or to build, operate, or use a campfire in any park.

§ 9-8-10 CURFEW.

Between the hours of 10:00 p.m. and 6:00 a.m., no person shall enter or be present in any city park or parking lots connected therewith or adjacent thereto, excluding a city employee in performance of the employee's duties, and a person permitted to engage in leisure and recreational activities under the parks and recreation department.

§ 9-8-11 LIQUOR IN PUBLIC PARKS PROHIBITED; EXCEPTION.

(A) Except as hereinafter provided, it shall be unlawful for any person to consume or possess any alcoholic beverage or beverages in any public park within the corporate limits of the city.

(B) In the event a person, persons, or corporation shall lease or rent the premises in [REDACTED] Kleberg Park known as the J. K. Northway Building [REDACTED] for public or private use and shall desire to serve or permit alcoholic beverages to be consumed on the premises, [REDACTED] the following rules shall [REDACTED]:

(1) (a) An application shall be made to the [REDACTED] which shall contain the following:

1. The person or persons responsible for the use of the building.
2. The purpose for which the building is to be used.
3. The number of persons expected to attend the function for which the building let.
4. The type of beverages to be sold or consumed on the premises.
5. The type of security that will be provided by the applicant.
6. The hours such beverages will be sold or consumed on the premises.
7. The person whose license will be used for the sale of any alcoholic beverage.
8. The applicant shall sign a statement that all applicable state laws will be complied with before any alcoholic beverages are sold or consumed on the premises.

(b) If the [REDACTED] deems that the public interest shall be served by the issuance of a permit for such purposes, such [REDACTED] may issue a permit and such permit shall contain the rules applicable to same.

(2) In addition to the items enumerated above, the [REDACTED] may make such additional requirements as they deem necessary for the safety and well-being of the persons attending such function.

(1962 Code, § 6-1-53)

Cross reference— Penalty, see § 1-1-99

§ 9-8-12 FIREARMS IN PUBLIC PARKS PROHIBITED; EXCEPTION.

(A) Except as hereinafter provided, it shall be unlawful for any person to possess or discharge any firearm in any public park within the corporate limits of the city.

(B) Exception: (1) certified law enforcement officers may possess a firearm.

§ 9-8-13 FIREWORKS PROHIBITED IN PARKS.

The bringing of fireworks and the discharge of fireworks into the parks is prohibited.

§ 9-8-14 USE OF PARK PROPERTY

- (A) It shall be unlawful for any person to enter into, pass through, or congregate with other persons on park property at a time, whether night or day, when such property is closed to the general public
- (B) It shall be unlawful for any person to enter into, pass through, or congregate with other persons on park property for any other purpose than to participate in an authorized use of the parks during the hours the parks are open for business.
- (C) The provisions of this section do not apply to agents, representatives, licensees or employees of the city; provided, however, that such persons are engaged in the performance of their duties.
- (D) It shall be unlawful for any person to disregard any order issued by the Parks & Recreation Manager, or his designee, relating to the use, means, or manner of play at the parks.
- (E) It shall be unlawful for any person to remain in any building, swimming pool, playground, park area or public property within the city after being advised by the Parks & Recreation Manager or any person authorized by the manager or any association, club or group, so authorized to conduct, manage, supervise, sponsor or be responsible for such supervised recreation that his is interfering with disrupting or preventing the orderly conduct of such supervised activity or program and after having been asked to leave such swimming pool, playground, park or public property within the city.
- (F) Glass containers. To prevent injury to persons using and enjoying the recreational facilities, no glass container of any kind shall be brought upon those properties.
- (G) Traffic and parking. All vehicular traffic shall obey the posted speed limit and parking of vehicles shall be done only in designated areas unless by permit stating otherwise.
- (H) No soliciting. No person may solicit funds or donations or peddle any goods, wares, or merchandise except by permit of the city.
- (I) Vehicles. No person shall park a vehicle upon any public roadway, city-owned or maintained park lands, public playground or public recreation area which is owned, operated or maintained by the city for the principal purpose of:
 - a. Displaying such vehicle for sale;
 - b. Washing, greasing, or repairing such vehicle except repairs necessitated by an emergency.

Any person who violates any provision of this section shall, upon conviction, be subject to a penalty as prescribed in §1-1-99.

§ 9-8-10. RULES AND REGULATIONS.

The following rules and regulations are hereby established for the use of the lake at Dick Kleberg Park in the city:

- (A) No swimming, wading or bathing shall be allowed therein at any time.
- (B) No boats or floats equipped with mechanical power shall be used thereon.
- (C) No nets, seines or trout lines shall be, used for the catching of fish.
- (D) Any person desiring to use a boat thereon shall first apply to the Parks and Recreation Department for a permit to do so. A permit shall be issued by the Director unless in his opinion such use would be detrimental to the lake and property thereon.

§ 9-8-11. INJURING PROPERTY; LITTERING PROHIBITED.

- (A) It shall be unlawful for any person to injure, deface, mutilate, remove, pull down, break, or in any manner interfere with or molest, secrete or destroy any real or personal property belonging to or under the control of the Parks and Recreation Department ~~either within or without the confines of Dick Kleberg Park.~~
- (B) It shall be unlawful for any person to deposit dirt, trash, cans, papers or other litter onto the ground in ~~any~~ Dick Kleberg Park or to throw or deposit the same into the lake therein situated ~~in the city.~~

(1962 Code, § 9-8-2)

Cross reference— Penalty, see § 1-1-99.

GOLF COURSE

§ 9-8-30 TRAFFIC.

It shall be unlawful for any person to walk upon or across, or to drive or to ride upon any animal-drawn or motor-driven vehicle upon or across the city golf course, between sunset and sunrise, except that such regulation shall not apply to law enforcement officers engaged in the discharge of their duties, or employees of the city performing their duly assigned duties.

§ 9-8-31 USE OF GOLF COURSE PROPERTY.

- (A) It shall be unlawful for any person to enter into, pass through, or congregate with other persons on the municipal golf course property at a time, whether night or day, when such property is closed to the general public.

- (B) It shall be unlawful for any person to enter into, pass through, or congregate with other persons on municipal golf course property for any other purpose than to participate in an authorized use of the municipal golf course during the hours the golf course is open for business.
- (C) The provisions of this section do not apply to agents, representatives, licensees or employees of the city; provided, however, that such persons are engaged in the performance of their duties.
- (D) It shall be unlawful for any person to play golf using driving-range golf balls which are identified as such by a clearly marked colored or black circle circumventing the golf ball.
- (E) It shall be unlawful for any person to disregard any order issued by the Golf Course Manager, or his designee, relating to the means or manner of play at the golf course.
- (F) It shall be unlawful for any person to drive a cart upon any area except designated golf cart areas except as authorized by the Golf Course Manager.
- (G) Any person who violates any provision of this section shall, upon conviction, be subject to a penalty as prescribed in §1-1-99.

§ 9-8-32 LIVESTOCK.

It shall be unlawful for any person owning or having under his control any horses, cattle or other livestock to allow the horses, cattle or other livestock to go in, upon or across the city golf course.

§ 9-8-33 DAMAGE TO PROPERTIES.

It is unlawful for any person to intentionally cut, mutilate, deface, defoliate, or otherwise destroy or cause injury, in whole or in part, to any part or portion of the municipal golf course premises, facilities or equipment. It is unlawful for any person to willfully or wantonly mark or deface or in any way injure the golf course facilities or any part thereof, or any fixtures therein or appertaining thereto. A violation of this section shall, upon conviction, be punished as provided in §1-1-99.

§ 9-8-34 OPERATIONS.

The following regulations shall be in effect relative to the use of the municipal golf course:

- (1) Rules of Play. The "rules of Play" posted at the municipal golf course will be strictly enforced.
- (2) Tournament. Tournament schedules will be coordinated with the Golf Course Manager. All tournament organizers shall make the proper arrangements with the golf manager to ensure that scheduling conflicts will be avoided.
- (3) Soft Spikes. Only soft spikes will be allowed on the municipal golf course.
- (4) Practice Area. Practice will be allowed only in areas designated by the Golf Course Manager.
- (5) Trail Fee. The trail fee prescribed by this article shall be paid in advance by each golfer using a private golf cart on each daily round played.
- (6) Patrol Marshals. The Golf Course Manager shall select up to five patrol marshals. One patrol marshal per day is allowed to patrol. Compensation for each marshal will be two free green fees per week for each day they patrol. The duties of the patrol marshal shall be as follows:
 - a. Promote congeniality, goodwill and sportsmanship;
 - b. Check for fee receipts, membership cards and illegal players;
 - c. Report to the Golf Course Manager any hazards or conditions that may jeopardize the health and safety of the players; and
 - d. Provide services as directed by the Golf Course Manager or his designee.

§ 9-8-35 ALCOHOLIC BEVERAGES PROHIBITED ON GOLF COURSE.

The bringing of beer or other alcoholic beverages onto the municipal golf course is prohibited. Beer is available for purchase at the club house where a limited number of ice chests and ice are available if desired. This provision may be waived by the golf manager for special events.

§ 9-8-36 FIREWORKS PROHIBITED ON GOLF COURSE.

The bringing of fireworks and the discharge of fireworks onto the municipal golf course is prohibited.

§ 9-8-37 FIREARMS ON GOLF COURSE PROPERTY PROHIBITED: EXCEPTION.

(A) Except as hereinafter provided, it shall be unlawful for any person to possess or discharge any firearm in any golf course property.

(B) Exceptions: (1) certified law enforcement officers may possess a firearm, and (2) when at a designated shooting range.

§ 9-8-38 DEFINITIONS.

The following definitions shall apply to this article:

- (1) *College Student.* Any person actively enrolled in a minimum of twelve hours of college.
- (2) *Golf Course Manager.* The administrator in charge of the municipal golf course, who shall be employed and discharged by the City Manager.
- (3) *Junior.* Any person 18 years of age or younger, currently enrolled in high school or below. A junior under the age of 12 must be accompanied by an adult.
- (4) *Lessee.* Any person or organization of whatever nature that uses the municipal golf course premises, facilities or equipment.
- (5) *Military.* Any person actively enlisted in the U.S. military.
- (6) *Municipal Golf Course.* The L.E. Ramey Golf Course and the entire premises thereof, including but not limited to the clubhouse, restaurant, pro shop, cart shed and golf course itself, and all other parts or portions thereof.
- (7) *Nine hole fee.* Paid by persons wishing to play nine holes of golf.
- (8) *Senior.* Any person who is 62 years of age or older.

§ 9-8-39 USE FEES.

The Golf Course Manager is hereby authorized to collect fees for the use of all golf course facilities and equipment, such fees to be set from time to time by the City Commission. All fees charged for the use of facilities or equipment under this section shall be due and payable to the city. Persons who have paid fees under the old fee schedule are required to pay the difference in accordance with the new fee schedule. The free use of all facilities and equipment of the municipal golf course is hereby prohibited to any individual or group or to any employee or officer of the city, except as provided for in this article.

§ 9-8-40 SALE OF MERCHANDISE; CONCESSIONS.

- (A) Only the city and its assigns may sell merchandise at the municipal golf course. The use of any portion of the municipal golf course by any individual, group, firm, or corporation other than the city for the purpose of selling merchandise is hereby prohibited without the written consent of the Golf Course Manager. Sale of merchandise by tax-exempt/nonprofit charitable organizations or civic groups is hereby excepted from such prohibition and shall be permitted upon the approval of the Golf Course Manager.
- (B) Only the city and its assigns shall have the right to operate concessions for the sale of food, drinks (including alcoholic beverages), programs, novelties, souvenirs, etc. Sale of concessions by tax-exempt charitable organizations and civic groups are hereby exempted from such prohibition and shall be permitted upon the approval of the Golf Course Manager.

§ 9-8-41 GOLF COURSE FEES.

The following schedule of fees shall be paid by the patrons of the municipal golf course. The golf manager may negotiate rates for golf course special events and promotions.

(A) Daily Green Fees:

Golf course green fees for persons 18 years of age or older (non-refundable).

(1) 18-Holes of Play:

Weekends and holidays: \$ 14.75

Weekends and holidays with ½ cart fee: \$ 25.25

Weekend twilight with ½ cart fee: \$20.25

Weekdays: \$ 12.75

Weekdays with ½ cart fee: \$ 23.25

Weekdays twilight with ½ cart fee: \$19.25

(2) 9-Holes of Play:

Weekends and holidays: \$ 8.25

Weekends and holidays with ½ cart fee: \$ 15.75

Weekdays: \$ 7.25

Weekday with ½ cart fee: \$ 14.75

(B) Junior Fees:

Golf course green fees for persons in the classification of junior (non-refundable).

(1) 18-Holes of Play:

Weekdays: \$ 7.75

Weekdays with ½ cart fee: \$ 15.25

(2) 9-Holes of Play:

Weekdays: \$ 4.75

Weekdays with ½ cart fee: \$ 12.25

(C) Junior Fees:

Golf course green fees for persons in the classification of Junior (non-refundable).

(1) 18-Holes of Play:

Weekdays: \$ 7.75

Weekdays with ½ cart fee: \$ 15.25

(2) 9-Holes of Play:

Weekdays: \$ 4.75

Weekdays with ½ cart fee: \$ 12.25

(D) College Student Fees:

Golf course green fees for persons in the classification of College Student (non-refundable).

(1) 18-Holes of Play:

Weekdays: \$ 8.75

Weekdays with ½ cart fee: \$ 16.25

(2) 9-Holes of Play:

Weekdays: \$ 5.75

Weekdays with ½ cart fee: \$ 13.25

(E) Military Fees:

Golf course green fees for persons in the classification of Military (non-refundable).

18-Holes of Play:

Weekdays: \$ 10.75

Weekdays with ½ cart fee: \$ 21.25

(F) Senior Fees:

Golf course green fees for persons 62 years of age or older (non-refundable).

18-Holes of Play:

Weekdays: \$ 9.75

Weekdays with ½ cart fee: \$ 20.25

(G) Annual membership fees:

Annual membership (non-refundable), entitles that person to unlimited green fees for 365 days from date of purchase.

Annual individual membership rate: \$ 700.00

Annual individual and spouse joint member rate: \$1,200.00

Junior annual membership rate: \$ 460.00

College Student annual membership rate: \$520.00

Military annual membership rate: \$540.00

(H) Monthly membership fees:

Monthly membership entitles player to unlimited green fees for 30 days from date of purchase (non-refundable).

Monthly individual membership rate: \$ 96.00

Monthly individual and spouse joint membership rate: \$ 155.00

Monthly Junior membership rate: \$65.00

(I) Annual cart fee and green fee:

Annual cart fee is per player and entitles player to unlimited carts for 365 days from date of purchase (non-refundable) and unlimited green fees for 365 days from date of purchase (non-refundable).

Annual individual cart fee and green fee: \$ 2,000.00

Annual individual & spouse joint cart fees and green fee: \$3,190.00

(J) Monthly cart fee and green fee:

Monthly cart fee is per player and entitles player to unlimited carts for 30 days from date of purchase (non-refundable) and unlimited green fees for 30 days from date of purchase (non-refundable).

Monthly individual cart and green fee: \$ 185.00

Monthly individual & spouse joint cart and green fee: \$ 360.00

(K) Private cart trail fee:

This fee is for use of a private golf cart by the owner of the private cart, the owner's spouse or qualified junior and up to one additional rider (limited to a total of two riders), authorized by owner. Fee is valid for 365 days from date of purchase (non-refundable).

Daily private cart trail fee: \$ 7.50

Private carts are subject to approval for safety purposes and liability issues by the golf manage or his designee. The owners of powered golf carts shall be fully responsible for the safety and liability of occupants and the safe operation of their powered golf carts and shall be responsible for ensuring that their golf carts are maintained and operated in accordance with their golf cart operation/instruction manual while on municipal golf course property.

(L) Monthly Locker Fee:

Monthly locker fee is per player and entitles player to use of a locker for 30 days from date of purchase (non-refundable).

Monthly individual locker fee: \$ 80.00

(M) Daily Golf Club Rental Fee:

Daily golf club fee is per player and entitles player to use of a set of golf clubs (non-refundable).

Daily golf club rental fee: \$ 8.00

(N) Monthly Driving Range Membership Fee:

Monthly driving range membership entitles player to unlimited driving range fees for 30 days from date of purchase (non-refundable).

Monthly individual membership rate: \$ 80.00

(O) Range Ball Bucket Fee:

Large Bucket (135 balls): \$9.00

Medium Bucket (75 balls): \$7.00

Small Bucket (35 balls): \$3.00

(P) Minors less than 16 years of age shall not operate golf carts on municipal golf course property.

(Q) Each golf course green fee shall entitle payee to play a maximum of 18 holes of golf on the date paid. Additional payment of green fees shall be required if more than 18 holes of golf are to be played.

...

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, work or ordinance hereof be given full force and effect for its purpose.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this 15th day of September, 2014.

PASSES AND APPROVED on this the 22nd day of September, 2014.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

REGULAR AGENDA

AGENDA ITEM #5

Memorandum

TO: Mayor & Commission Members

Through: Vince Capell, City Manager
Cynthia Martin, Interim Planning & Development Services Director

FROM: Mike Kellam, AICP, CK Consulting Firm, LLC

SUBJECT: Section 15-3-15 through 15-3-25

DATE: September 11, 2014

As a part of the continual review of the current codes and land use regulations by city staff, consulting services were provided to create the “Developer’s Guide; a comprehensive guide to land development,” and to assist in addressing identified deficiencies within the current subdivision code. As part of researching and creating the Developer’s Guide, it was determined by staff and the consultant that additional subdivision code language was needed to guide both the public and staff in the platting of land within the city. Additionally, varying plat types afforded by the Texas Local Government Code, were not being utilized due to a lack of being clearly defined or identified in the local ordinances. These varying plat types allow for additional options in land development platting and provide the ability to better streamline the development process or allow corrective action in an abbreviated timeframe compared to existing subdivision code authority.

Given these findings and in conjunction with the creation of the Developer’s Guide, code language was drafted to address the identified needs. The proposed version of the subdivision code goes beyond the previous code in that it provides additional options within the platting process, specifically defines these plat types and describes how they can be utilized depending on the situation. Furthermore, it provides information and guidance as to the form and content of the plat submittals and the subsequent review processes by the City.

With the exception of the additional language pertaining to the purpose and intent of the subdivision code, a majority of the existing code language was maintained after a thorough review to ensure it met today’s ever-changing development environment. Minor changes were made to the existing subdivision code sections to better define the processes and requirements in form and content.

The (new) proposed code sections include 15-3-20 through 15-3-24. These sections include the allowance of the following:

- A *conceptual development plat* that works in conjunction with a Planned Unit Development;
- An *amended plat* which will allow the applicant the ability to now make minor corrections to an existing plat (e.g. a street name change);

- A *replat* which will allow for a significant change to a portion of a platted area of a larger plat;
- A *lot line adjustment plat* which gives the applicant the ability to adjust one specific lot line; and/or
- A *vacating plat* which provides for the ability to vacate a plat that is no longer considered for development or is obsolete in design.

These new code sections provide guidance in the application of these types of plats and provide for submittal, review and approval processes to clearly guide staff, the general public and the Boards and Commissions through consideration and approval. Most importantly, the new sections provide flexibility by both city staff and the developer in the platting and development process by streamlining the process and providing expedited processes to make changes or correct minor errors. This eliminates the need of having to go through the lengthier preliminary and final platting process more than once.

Finally, a *fee schedule* code section is proposed which will more clearly define the associated application fees for the different types of plat applications. Previously this was separated in several sections of the subdivision code and only prescribed fees for preliminary and final plats. This newly proposed section includes all the defined plat types and clearly outlines the fees associated with the application, all in one section rather than having to revert back to separate sections to determine the platting fees. The fee schedule section also includes the county recording fees associated with the platting process.

ORDINANCE NO.2014- _____

AMENDING THE CITY OF KINGSVILLE CODE OF ORDINANCES BY AMENDING CHAPTER XV, LAND USE, ARTICLE 3, SUBDIVISIONS, SECTIONS 15-3-15 THROUGH 15-3-25; REVISING THE PLATTING PROCEDURES; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, the City of Kingsville is updating its Code of Ordinances and found that Sections 15-3-15 through 15-3-25, dealing with platting procedures are recommended for certain changes to improve the quality of life in the city;

WHEREAS, the City of Kingsville Planning & Zoning Commission met on September 17, 2014 to consider these recommended changes and voted **0** ~~for~~ **0** ~~to approve~~;

WHEREAS, this Ordinance is necessary to protect the public safety, health, and welfare of the City of Kingsville.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KINGSVILLE, TEXAS:

I.

THAT Sections 15-3-15 through 15-3-25 of Article 3: Subdivisions of Chapter XV, Land Usage, of the Code of Ordinances of the City of Kingsville, Texas, shall be amended to read as follows:

...

SEC. 15-3-15. PRELIMINARY CONFERENCE. ~~PURPOSES OF REGULATIONS~~

~~Prior to the official filing of a preliminary plat, the subdivider shall consult with an present a proposed plan of subdivision to the Department of Planning and Community Development for comments and advice on the procedures, specifications and standards required by the city for the subdivision of land.~~

~~(A) The purposes of these provisions are to regulate the subdivision and improvement of land for urban use, to provide adequate light, air, open space, drainage, transportation, public utilities and other needs; to secure the maintenance of health, safety and an attractive and efficient community; and to encourage the economical use of human and natural resources.~~

~~(B) The subdivision of land is the first step in the process of urban development. The arrangement of land parcels in the community for residential, commercial and industrial uses and for streets, alleys,~~

schools, parks and other public purposes provides the basic framework for the uses of land and for the arrangement of the community.

(C) These regulations are designed, intended and should be administered in a manner for

- (1) Implement the city's adopted master plan for development.
- (2) Provide for neighborhood conservation and prevent the development of slums and blight.
- (3) Harmoniously relate the development of the various tracts of land in the city to the existing community development and facilitate and coordinate the future development of adjoining tracts.
- (4) Provide the best possible design for the tract being subdivided and developed.
- (5) Reconcile the diverse interests of the subdivider, adjacent property owners and the city.
- (6) Coordinate the provision of streets within subdivisions with existing and planned streets and with other features of the master plan and official future land use map.
- (7) Ensure that all necessary public utilities and facilities are provided and are or will be available, accessible and adequate pursuant to adopted city standards and requirements, at the time of subdivision or development.
- (8) Establish adequate and accurate records of land subdivisions.

(D) *Authority.* This chapter is enacted pursuant to the authority of Local Government Code Sections 212.001 through 212.004, with all other statutory and local authority which now, or which may in the future, provide authority for subdivision regulations.

(E) *Applicability.* Hereafter, every owner or subdivider of any lot, tract or parcel of land situated within the corporate limits of the city who may seek to subdivide the same into two or more tracts for the purpose of laying out any subdivision or any additions thereto shall comply with the provisions of these regulations, unless otherwise exempted pursuant to this section.

(F) *Conformity with zoning ordinance.* All plats reviewed under the provisions of these regulations shall conform to all zoning ordinance provisions for the district in which the plat is to be located. All required zoning changes shall be made prior to approval of the final plat by the council.

(G) *Preliminary conference.* Prior to the official filing of a preliminary plat, the subdivider shall consult with and present a proposed plan of

subdivision to the Department of Planning and Development Services for comments and advice on the procedures, specifications and standards required by the city for the subdivision of land.

SEC. 15-3-16. PRELIMINARY PLAT AND ACCOMPANYING DATA; FEES; PROCESSING PROCEDURES. (GENERAL SUBDIVISION & PLANNING PROCEDURES; DEFINITIONS)

(A) *Types of Plats Required.* A Final Plat or a Minor Plat shall be approved prior to any land division that is subject to these regulations and prior to commencement of any new development or construction project.

(B) *Replat.* A replat in accordance with State Law and the provisions of Sections 15-3-21(A) and 15-3-21(B) shall be required any time a plat is replatted, recorded for its further divided or expanded, thereby changing the boundary and dimensions of the property.

(C) *Amending Plat.* In the case of minor revisions to recorded plats or lots, a Minor Plat or Amending Plat may also be utilized if allowed by State Law and if in accordance with Section 15-3-21(A) and 15-3-21(C).

(D) *Conceptual Development Plat.* A conceptual development plat shall be required when application is made for a planned unit development where flexible zoning techniques will be utilized. The conceptual development plat is to accompany the planned unit development zoning application showing the information as required within Section 15-3-20.

(E) Definitions

(1) *Amending Plat.* A plat intended to perform a minor change in a previously approved plat that meets one or more of the criteria listed in section 15-3-21(A) and 15-3-21(C).

(2) *Conceptual development plat.* A plat prepared in accordance with the provisions of these and any other applicable regulations for the purpose of providing a conceptual design of planned unit developments and other flexible zoning techniques to support and reiterate a pending final subdivision plat.

(3) *Final Plat.* A plat prepared in accordance with the provisions of these and any other applicable regulations and is prepared in the proper format to be recorded in the office of public records of Kleber County.

(4) *Lot line adjustment.* A boundary relocation between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where no additional lots are created.

(5) *Minor Plat.* A subdivision of an entire lot or parcel resulting in not more than a total of four lots, tracts, blocks or parcels, whether the lots are created at one time or over an extended period of time, provided that such subdivision does not involve:

- (a) a planned unit development;
- (b) the creation of new public streets;
- (c) the extension of a utility or other public facility; or
- (d) the installation of drainage improvements through one or more lots to serve one or more other lots.

(6) *Preliminary plat.* A plat prepared in accordance with the provisions of these and any other applicable regulations, which plat is made for the purpose of showing the details of a proposed subdivision and the existing conditions in and around it.

(7) *Replat.* A plat indicating the replacement of all or a portion of an existing, recorded subdivision plat with a new and different subdivision plat.

(8) *Subdivision.* Improved or unimproved land or lands divided or proposed to be divided for the purpose of sale or lease, whether immediate or future, into six or more lots, parcels or fractional interests.

(9) *Vacating Plat.* An instrument declaring that a recorded plat and its dedication(s) be vacated or cancelled.

(A) *General.* Preliminary plat shall be required when substantial water, wastewater, earthwork, roadway improvements or if unusual property circumstance require further review by city staff. When minor improvements are required a letter of explanation and detailed sketch will suffice. Waiving the preliminary plat requirement will be left to the discretion of the city's authorized agent.

(B) *Time for filing and copies required.* The subdivider shall present 15 blue or black line copies of the plat to the Director of Planning no less than ten working days prior to the date at which formal application for the preliminary plat approval is made to the Planning and Zoning Commission.

(C) *Filing fees.*

~~(1) Such plat shall be accompanied by a filing fee as noted below. An additional fee of \$200.00 shall be collected for any replat or amending plat to defray the expense of publication and notice required by local ordinance or state statute. No action by the Planning and Zoning Commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for preliminary plat approval or should the plat be disapproved.~~

Preliminary Plat Filing Fees	
(Payable Upon Submittal)	
Up to 0.99 acres	\$115.00
One acre to 4.99 acres	230.00
Five acres or more	46.00 per acre

~~(2) The filing fee shall be waived when a preliminary plat is not required.~~

~~(D) *Form and content.* The preliminary plat shall be drawn at a scale of one inch to 100 feet on sheets 24 inches wide and 36 inches long, with a binding margin of not less than one and one-half inches on the left side of the sheet and margins on the other three sides of not less than one-half inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:~~

- ~~(1) Names and addresses of the subdivider, record owner, engineer and/or surveyor.~~
- ~~(2) Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the city limits or the extra-territorial jurisdiction of the city. Proposed names of streets, which shall not be the same or similar to those already assigned to other streets in other parts of the city unless there is a street continuation.~~
- ~~(3) Names of contiguous subdivisions.~~
- ~~(4) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.~~
- ~~(5) Existing sites as follows:~~
 - ~~(a) The general location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights of way within the subdivision, intersecting or contiguous with its boundaries or forming such boundaries.~~
 - ~~(b) The general location, dimensions, description and name of all existing or recorded residential lots, parks, public areas and other sites within or contiguous with the subdivision.~~

~~(c) The general location, dimensions, description and flow line of the existing watercourses, associated floodplains and drainage structures within the subdivision or on contiguous tracts.~~

~~(6) The general location, dimensions, description and names of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights-of-way, blocks, lots and other sites within the subdivision. Exception: Specific lot dimensions do not have to be shown.~~

~~(7) The location of sanitary sewer lines.~~

~~(8) The location of water lines.~~

~~(9) The location of watercourses, drainage and flood prevention structures.~~

~~(10) Date of preparation, scale of plat and north arrow.~~

~~(11) A copy of the U.S.G.S. topographical map.~~

~~(12) Vicinity sketch or map at a scale of not more than 1,000 feet to an inch which shall show existing subdivisions, streets, easements, rights-of-way, parks and public facilities in the vicinity.~~

~~(13) AICUZ boundaries where applicable and identified by the Department of Planning and Community Development.~~

~~(14) Staff reserves the right to request additional information to adequately enforce the intent of the preliminary plat requirements.~~

~~(15) A final plan for the proposed fills or other structure-elevating techniques, levees, channel modifications, retaining walls and other methods to overcome flood or erosion-related hazards (see § 15-3-65(B)(3) of this article).~~

~~(16) Notice: This property is located within an area that is one-quarter mile outside of the Naval Air Station (NAS) Kingsville 65 dB DNL noise contours and may be impacted by noise, odors, flight safety hazards, and other potential compatibility issues relating to installation operations. This property may also be subject to additional development regulations relative to the property's proximity to the installation.~~

~~(E) Processing the preliminary plat.~~

~~(1) On receipt of the preliminary plat and other required information, the Planning and Zoning Commission shall render a decision thereon within 30 days. Such decision may consist of approval, disapproval or conditional approval. Conditional approval shall be considered to be the approval of a plat or replat subject to conformity with prescribed conditions, but shall be deemed to be a disapproval of such plat or replat until such conditions are complied with. All objections made to the preliminary plat, or conditions imposed, shall be furnished to the subdivider in writing.~~

~~(2) When a preliminary plat and other required information has been approved, the subdivider may thereafter file a final plat or plats of sections of the subdivision upon which approval of the preliminary plat has been obtained, and upon the filing of the final plat or plats, preliminary plat shall be~~

considered approved or conditionally approved as in subdivision (1) above; provided, however, that such approval or conditional approval of the remainder of the preliminary plat shall be limited to a one year period; provided further, however, that the Planning and Zoning Commission may, at its discretion, extend such period of validity. When a preliminary plat has been approved and thereafter the subdivider fails to file with the Planning and Zoning Commission a final plat of the subdivision or a section thereof within a period of six months, the approval of the preliminary plat shall be void except, however, the Planning and Zoning Commission may, in its discretion, extend such period of validity.

(3) The Director of Planning shall approve a Plat:

- (a) If the plat consists of four or fewer lots fronting on an existing street and not creating a new street;
- (b) If the plat is an amending plat as described in Section 212.016 of the Texas Local Government Code as of the date of the adoption of this subsection unless otherwise required by law.
- (c) If water and sewer service for development on the proposed lots is immediately available without a service extension, and no extension of municipal facilities is required to serve the proposed lots;
- (d) No variance is required for the plat to meet the requirements of subsection (e); and
- (e) The plat complies with the subdivision ordinance applicable at the time the application for final plat approval was filed.

If the plat consists of more than four lots but is not an amending plat, or if a variance is required, the Planning and Zoning Commission shall approve the plat if the plat complies with the subdivision ordinance and, after action on the requested variance, with all requirements of this Code applicable at the time the application for final plat approval was filed. For the purposes of this subsection, "amending plat" has the same meaning as contained in Section 212.016 of the Texas Local Government Code as of the date of the adoption of this subsection unless otherwise required by law.

SEC. 15-3-17. FINAL PLAT; DECISION OF COMMISSION; FEES. MINOR PLAT PROCESSING AND APPROVAL

(A) *Application Requirements.* The requirements for the submittal of a Minor Plat shall be the same as the requirements for a Final Plat, as outlined in Section 15-3-19.

The Director of Planning & Development Services shall administratively approve a Minor Plat if

- (1) the plat consists of four or fewer lots fronting on an existing street and not creating a new street;
- (2) the plat is an amending plat as described in Section 212.01(6) of the Texas Local Government Code unless otherwise required by law;
- (3) water and sewer service for development on the proposed lots is immediately available without a service extension, and no extension of municipal facilities is required to serve the proposed lots;
- (4) no variance is required for the plat to meet the requirements of section 153-119; and
- (5) the plat complies with the subdivision ordinance applicable at the time the application for final plat approval was filed.

The final plat and accompanying data shall conform to the preliminary plat as conditionally approved by the Planning & Zoning Commission, incorporating any and all changes, modifications, alterations, corrections and conditions required by the Planning & Zoning Commission.

The final plat and accompanying data shall conform to the preliminary plat as conditionally approved by the Planning Commission, incorporating any and all changes, modifications, alterations, corrections and conditions required by the Planning Commission.

(A)

The original and ten copies of the final plat. This plat shall be drawn on mylar, a minimum scale of one inch to 100 feet or larger in ink with all figures and letters legible, and the whole proper for filing for record in the office of the County Clerk with the following information given:

(1) The title or name by which the subdivision is to be identified, north point, the scale of the map and the name of the state-registered professional engineer and/or state-licensed or registered land surveyor responsible.

(2) A definite legal description and identification of the tract being subdivided. This description shall be sufficient for the requirements of title examination. The plat shall be a descriptive diagram drawn to scale. The plat shall show by reference that the subdivision is a particular portion or part of the previously filed plat, recognized grant or partition.

(3) The boundaries of the subdivided property, the location or designation of all streets, alleys, parks and other areas intended to be dedicated or deeded to the public use, with proper dimensions. The

boundaries of the subdivisions shall be indicated by a heavy line and shall be tied by dimensions to the parent subdivision.

~~(4) The location of all adjacent streets and alleys, with their names, and the names of adjoining subdivisions with exact location and designation by number of lots and blocks.~~

~~(5) All lot, block and street boundary lines, with blocks and lots numbered or lettered consecutively. Building lines and easements shall be shown and shall be defined by dimension. The actual width of all streets shall be shown, measured at right angles or radially, where curved. All principal lines shall have the bearing and any deviations from the norm shall be indicated.~~

~~(6) Accurate dimensions, both linear and angular, of all items on the plat; the boundary survey on the site shall close within one in 10,000. Linear dimensions shall be expressed in feet and decimals of a foot; angular dimensions may be shown by bearings. Curved boundaries shall be fully described and all essential information given (radius, delta, arc); circular curves shall be defined by actual length of radius and not by degree of curve. Complete dimensional data shall be given on fractional lots.~~

~~(7) The location and description of all lot, block and subdivision corners:~~

~~(a) Lot corners shall be three-fourths inch iron pipe or five-eighths iron rod 24 inches to 30 inches long with the top set flush with the ground.~~

~~(b) Block corners shall be three-fourths inch iron pipe or five-eighths inch iron rod 24 inches to 30 inches long. They shall be double pinned with the top rod being set flush with ground and shall include the beginning and end of all curves within each block.~~

~~(c) Subdivision corners will be marked by a concrete monument that meets or exceeds the following standard. A five-eighths inch iron rod shall be set in a concrete block measuring six inches in diameter and 24 inches long.~~

~~(8) The flood hazard areas shall be delineated on the final plat, and reserved by deed restrictions as areas not suitable for development.~~

~~(9) A certificate of ownership in fee of all land embraced in the subdivision, and of the authenticity of the plat and dedication, shall be signed and acknowledged by all owners of any interest in the land. The acknowledgment shall be in the form required in the conveyance of real estate. Approval and acceptance of all lien holders shall be included.~~

~~(10) A certificate by the responsible surveyor in charge, duly authenticated, that the plat is true and correct and in accordance with the determination of surveys as staked on the ground.~~

~~(11) A disclosure statement that all or a portion of the subdivision falls within the AIGUZ; the disclosure statement to be displayed prominently with other required certificates.~~

~~(12) In addition to other required certificates, the forms set out in the appendix shall be entered on the plat following the certificates of owner, engineer, and the like, and preceding the certificate of the County Clerk.~~

~~(13) The final plat submitted to the Planning and Zoning Commission, as well as the City Commission, and to be filed for record with the County Clerk, shall not show construction features such as curb lines or public utility lines or other structures not involved in the title covenant.~~

~~(14) The area of each lot shall be clearly indicated by writing the number of square feet in each lot on the final plat.~~

~~(B) *Final restrictive covenants.* A copy of the final restrictive covenants to govern the nature of the use of the property in the subdivision shall be submitted if the subdivision is planned for the use of individual septic tanks in lieu of a sanitary sewer system. The Planning and Zoning Commission may, in the public interest, require that these be filed simultaneously with the plat.~~

~~(C) *Planning and Zoning Commission to render decision within 30 days.* Upon filing of the final plat along with other required information, the Planning and Zoning Commission, as well as the City Commission, shall both render a decision thereon within 30 days after their respective regular meetings. The decision may consist of approval, disapproval or conditional approval. Reasons for disapproval or conditional approval shall be stated in writing.~~

~~When a plat is conditionally approved, the subdivider may subsequently refile the final plat meeting the objections or required conditions, and the Planning and Zoning Commission shall, at the next regular meeting thereafter, sign the final plat, provided it meets the objections or imposed conditions.~~

~~(D) *When final plat approved.* Upon approval of the final plat, the plat being otherwise fully endorsed and all provisions of the Subdivision Ordinance complied with shall be filed by the city with the County Clerk of Kleberg County, Texas.~~

~~(E) *Assurance for completion and warranty of improvements.*~~

~~(1) *Completion of improvements.*~~

~~(a) Except for a single or two-family residential subdivision which may exercise the option provided in section 15-3-17(F) as provided below, all applicants shall be required to~~

complete, to the satisfaction of the Director of Public Works all street, sanitary and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in Article III of these regulations prior to approval of the final plat for the subdivision. The required improvements shall be those specified in the approved infrastructure improvement plan(s) and said improvements shall be initiated within two years.

(b) As a condition of preliminary plat approval, the City Commission may require the applicant to deposit in escrow a deed describing by metes and bounds and conveying to the city all street rights-of-way, easements and public land required by these regulations, pending acceptance of improvements by the city and recordation of the final plat. In the event the applicant is unable to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the city may compel the delivery of the deed in order to complete the improvements as required.

(F) Improvement agreement and guarantee of completion of public improvements.

(1) *Subdivision improvement agreement.* The City Commission may waive the requirement of Section 15-3-17(E) for the completion of required improvements prior to issuance of building permits and, in lieu thereof, may permit the applicant to enter into a subdivision improvement agreement by which the applicant covenants and agrees to complete all required public improvements no later than five years following the date upon which the final plat is signed. Such five-year period may be extended for up to an additional five years upon its expiration at the discretion of the Director of Public Works. The City Commission may also require the applicant to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a subdivision improvement agreement for completion of the remainder of the required improvements during such five-year period. The applicant shall covenant to warranty the required public improvements for a period of two years following acceptance by the city of all required public improvements and shall provide a warranty that all required public improvements shall be free from defect for a period of two years following such acceptance by the city. The subdivision improvement agreement shall contain such

other terms and conditions as are agreed to by the applicant and the city.

~~(2) Covenants to run with the land.~~ The subdivision improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs and assignees of the applicant. The subdivision improvement agreement shall be recorded with the county recorder of deeds. All existing lienholders shall be required to subordinate their liens to the covenants contained in the subdivision improvement agreement.

~~(3) Completion security.~~

~~(a) Whenever the City Commission permits an applicant to enter into a subdivision improvement agreement, the applicant shall be required to provide sufficient security to ensure completion of the required public improvements. Such security shall be in the form of a surety bond, cash escrow or letter of credit.~~

~~(b) The surety bond, cash escrow or letter of credit shall be in an amount estimated by the Director of Public Works as reflecting the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the subdivision improvement agreement.~~

~~(c) In addition to all other security, when the city participates in the cost of an improvement, the applicant shall provide a performance surety bond from the contractor, with the city as a co-obligee.~~

~~(d) The issuer of any surety bond shall be subject to the approval of the City Attorney.~~

~~(4) Escrow agent.~~ If security is provided in the form of a cash escrow, the applicant shall deposit same with the Director of Finance and with an escrow agent mutually agreed upon by the director and the applicant subject to commission approval and audit, a cash amount or certified check endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Public Works pursuant to Section 15-3-17(F)(3)(c).

~~(5) Accrual.~~ The surety bond or cash escrow account shall accrue to the city for administering the construction, operation and maintenance of the improvements.

~~(6) Warranty Bond/Maintenance Security.~~

~~(a) The applicant shall guarantee the improvements, excluding sidewalks and streetlights, against defects in~~

~~workman-ship and materials for a period of two years from the date of city acceptance of such improvements. The maintenance security shall be secured by a surety bond, cash escrow or letter of credit in an amount reflecting 50% of the cost of the completed improvements pursuant to Subsection 15-3-17(F)(3)(c).~~

~~(b) If the applicant has entered into a subdivision improvement agreement for the completion of required improvements, the surety bond, cash escrow or letter of credit may be retained by the city in lieu of the warranty bond/maintenance security, provided the total amount of the surety bond, cash escrow or letter of credit reflects 50% of the cost of the completed improvements pursuant to Subsection 15-3-17(F)(3)(c).~~

~~(c) The applicant shall enter into a maintenance agreement with the city providing the applicant's guarantee of the improvements as required by Section 15-3-17(F)(6)(a). The maintenance agreement shall be accompanied by maintenance security in the form of a surety bond, cash escrow or letter of credit totaling 50% of the costs of all completed improvements pursuant to Subsection 15-3-17(F)(3)(c). The maintenance security shall run with the land and bind all successors, heirs and assignees of the applicant and shall be filed with the City Secretary's office.~~

~~(d) The city shall have the right, by ordinance, to waive the warranty bond/maintenance security on those sanitary sewers and street improvements constructed that were inspected and approved by the Director of Public Works and have been in use for two or more years.~~

~~(G) Approval to be valid for 12 months.~~ Approval of a final plat shall be valid for a period of 12 months; provided, however, that this period may be extended by the Planning and Zoning Commission upon written request by the subdivider.

~~(H) Filing fees.~~ Upon the submission of each final plat for approval, a filing fee shall be paid to the city as noted below:

Plat Filing Fees (Payable Upon Submittal)

Up to 0.99 acres\$100.00

One acre to 4.99 acres200.00

Five acres or more40.00

per acre

(f) *Recording fees.* Subdivider shall be responsible for all recording fees, which shall consist of \$50.00 for the first page and \$40.00 for each additional page, plus \$10 for certification of the first page and \$5.00 for each additional page.

SEC. 15-3-18 DISAPPROVAL RESTRICTED. [PRELIMINARY PLAT AND ACCOMPANYING DATA PROCESSING PROCEDURES]

(A) *General.* Preliminary plat shall be required when substantial water, wastewater, earthwork, roadway improvements or if unusual property circumstances require further review by city staff. When minor improvements are required a letter of explanation and detailed sketch will suffice. Waiving the preliminary plat requirement will be left to the discretion of the city's authorized agent.

(B) *Time for filing and copies required.* The subdivider shall present 5 blue or black line copies of the plat to the Director of Planning and Development Services no less than ten working days prior to the date at which formal application for the preliminary plat approval is made to the Planning and Zoning Commission.

(C) *Form and content.* The preliminary plat shall be drawn at a scale of one inch to 100 feet on sheets 24 inches wide and 36 inches long, with a binding margin of not less than one and one half inches on the left side of the sheet and margins on the other three sides of not less than one half inch. When more than one sheet is necessary to accommodate the entire area, an index sheet showing the entire subdivision at an appropriate scale shall be attached to the plat. The plat shall show the following:

(1) Names and addresses of the subdivider, record owner, engineer and/or surveyor.

(2) Proposed name of the subdivision, which shall not have the same spelling as or be pronounced similarly to the name of any other subdivision located within the city limits or the extra territorial jurisdiction of the city. Proposed names of streets, which shall not be the same or similar to those already assigned to other streets in other parts of the city unless there is a street continuation.

(3) Names of contiguous subdivisions.

(4) Subdivision boundary lines, indicated by heavy lines, and the computed acreage of the subdivision.

(5) Existing sites as follows:

(a) The general location, dimensions, names and description of all existing or recorded streets, alleys, reservations, easements or other public rights-of-way within the

subdivision, intersecting or contiguous with its boundaries or forming such boundaries.

(b) The general location, dimensions, description and names of all existing or recorded residential lots, parks, public areas and other sites within or contiguous with the subdivision.

(c) The general location, dimensions, description and flow line of the existing watercourses, associated floodplain, and drainage structures within the subdivision or on contiguous tracts.

(6) The general location, dimensions, description and names of all proposed streets, alleys, parks, other public areas, reservations, easements or other rights of way, blocks, lots and other sites within the subdivision. Exception: Specific lot dimensions do not have to be shown.

(7) The location of sanitary sewer lines.

(8) The location of water lines.

(9) The location of watercourses, drainage and flood prevention structures.

(10) Date of preparation, scale of plat and north arrow.

(11) A copy of the U.S.G.S. topographical map.

(12) Vicinity sketch or map at a scale of not more than 1,000 feet to an inch which shall show existing subdivisions, streets, easements, rights of way, parks and public facilities in the vicinity.

(13) ALCUZ boundaries where applicable and identified by the Department of Planning and Development Services.

(14) Staff reserves the right to request additional information to adequately enforce the intent of the preliminary plat requirements.

(15) A final plan for the proposed fills or other structures showing techniques, levels, channel modifications, retaining walls and other methods to overcome flood or erosion related hazards (see S. 1/5 3. 6x(B)(3) of this article).

(16) Notices: This property is located within an area that is one quarter mile outside of the Naval Air Station (NAS) Kingsville 65 dB DNL noise contours and may be impacted by noise, odors, flight safety hazards, and other potential compatibility issues relating to installation operations. This property may also be subject to additional development regulations relative to the property's proximity to the installation.

(D) Processing the preliminary plat.

(1) On receipt of the preliminary plat and other required information, the Planning and Zoning Commission shall render a decision thereon within 30 days. Such decision may consist of approval, disapproval or conditional approval. Conditional approval shall be considered to be the approval of a plat or report subject to

conformity with prescribed conditions, but shall be deemed to be a disapproval of such plat or report until such conditions are complied with. All objections made to the preliminary plat, or conditions imposed, shall be furnished to the subdivider in writing.

(2) When a preliminary plat and other required information has been approved, the subdivider may thereafter file a final plat or plats or sections of the subdivision upon which approval of the preliminary plat has been obtained, and upon the filing of the final plat or plats, preliminary plat shall be considered approved or conditionally approved as in subdivision (1) above; provided, however, that such approval or conditional approval of the remainder of the preliminary plat shall be limited to a one year period; provided further, however, that the Planning and Zoning Commission may, at its discretion, extend such period of validity. When a preliminary plat has been approved and thereafter the subdivider fails to file with the Planning and Zoning Commission a final plat of the subdivision or a section thereof within a period of six months, the approval of the preliminary plat shall be void except, however, the Planning and Zoning Commission may, in its discretion, extend such period of validity.

No plat shall be disapproved nor the processing thereof delayed for noncompliance with any requirement or condition not set forth in this article or otherwise required by law.

SEC. 15-3-19 PLATTED LOTS. FINAL PLAT; DEPOSITION OF COMMISSIONER

The final plat, for both major and minor plats, and accompanying data shall conform to the preliminary plat as approved or conditionally approved by the Planning and Zoning Commission or the Director of Planning and Development Services in the case of a minor plat. The plat incorporate any and all changes, modifications, alterations, corrections and conditions required by the Planning Commission or the Director.

(A) The original and ten copies of the final plat. This plat shall be drawn on mylar, a minimum scale of one inch to 100 feet or larger in ink with all figures and letters legible, and the whole proper for filing for record in the office of the Richmond County Clerk with the following information given:

(1) The title or name by which the subdivision is to be identified, north point, the scale of the map and the name of the state registered professional engineer and/or state-licensed or registered land surveyor responsible.

(2) A definite legal description and identification of the tract being subdivided. This description shall be sufficient for the requirements of title examination. The plat shall be a descriptive diagram drawn to scale. The plat shall show by reference that the subdivision is a particular portion or part of the previously filed plat, identified apart or partition.

(3) The boundaries of the subdivided property, the location or designation of all streets, alleys, parks and other areas intended to be dedicated or devoted to the public use, with proper dimensions. The boundaries of the subdivisions shall be indicated by a heavy line and shall be labeled by dimensions to the parent subdivision.

(4) The location of all adjacent streets and alleys, with their names, and the manner of adjoining subdivisions with exact location and designation by number of lots and blocks.

(5) All lot, block and street boundary lines, with blocks and lots numbered or lettered consecutively. Boundary lines and easements shall be shown and shall be defined by dimension. The actual width of all streets shall be shown, measured at right angles or radially, where curved. All principal lines shall have the bearing and any elevations from the mean shall be indicated.

(6) Accurate dimensions, both linear and angular, of all items on the plat. The boundary survey on the site shall close within one in 100,000. Linear dimensions shall be expressed in feet and decimals of a foot. Angular dimensions may be shown by bearings. Curved boundaries shall be fully described and all essential information given (radius, delta, etc). Circular curves shall be defined by actual length of radius and not by degree of curve. Complete dimensional data shall be given on fractional lots.

(7) The location and description of all lot, block and subdivision corners.

(a) Lot corners shall be three-fourths inch iron pipe or five-eighths inch iron rod 24 inches to 30 inches long with the top set flush with the ground.

(b) Block corners shall be three-fourths inch iron pipe or five-eighths inch iron rod 24 inches to 30 inches long. They shall be double pinned with the top rod being set flush with ground and shall include the beginning and end of all curves within each block.

(c) Subdivision corners will be marked by a concrete monument that meets or exceeds the following standard. A five-eighths inch iron rod shall be set in a concrete block measuring six inches in diameter and 24 inches long.

(8) The flood hazard areas shall be delineated on the final plat and reserved by deed restrictions as areas not suitable for development.

(9) A certificate of ownership in fee of all land embraced in the subdivision, and of the authenticity of the plat and dedication, shall be signed and acknowledged by all owners of any interest in the land. The acknowledgment shall be in the form required in the conveyance of real estate. Approval and acceptance of all lien holders shall be included.

(10) A certificate by the responsible surveyor in charge, duly authenticated, that the plat is true and correct and in accordance with the determination of surveys as taken on the ground.

(11) A disclosure statement that all or a portion of the subdivision falls within the AICUZ. The disclosure statement to be displayed prominently with other required certificates.

(12) In addition to other required certificates, the forms set out in the appendix shall be entered on the plat following the certificates of owner, engineer, and the like, and preceding the certificate of the County Clerk.

(13) The final plat submitted to the Planning and Zoning Commission, as well as the City Commission, and to be filed for record with the County Clerk, shall not show construction features such as curb lines or public utility lines or other structures not involved in the title covenant.

(14) The area of each lot shall be clearly indicated by writing the number of square feet in each lot on the final plat.

(B) *Final restrictive covenants.* A copy of the final restrictive covenants to govern the nature of the use of the property in the subdivision shall be submitted if the subdivision is planned for the use of individual septic tanks in lieu of a sanitary sewer system. The Planning and Zoning Commission may, in the public interest, require that these be filed simultaneously with the plat.

(C) *Planning and Zoning Commission to render decision within 30 days.* Upon filing of the final plat along with other required information, the Planning and Zoning Commission, as well as the City Commission, shall both render a decision thereon within 30 days after their respective regular meetings. The decision may consist of approval, disapproval or conditional approval. Reasons for disapproval or conditional approval shall be stated in writing. When a plat is conditionally approved, the subdivider may subsequently refile the final plat meeting the objections or required conditions, and the Planning and Zoning Commission shall, at the next regular meeting,

thereafter, upon the final plat, provided it meets the objections or imposed conditions.

(D) *When final plat approved.* Upon approval of the final plat, the plat or any otherwise fully endorsed and all provisions of the Subdivision Ordinance complied with shall be filed by the city with the County Clerk of Kibb County, Texas.

(E) *Assurance for completion and warranty of improvements.*

(1) *Completion of improvements.*

(a) Except for a single or two-family residential subdivision which may except to the option provided in section 115.31(f) as provided below, all applicants shall be required to complete, to the satisfaction of the Director of Public Works all street, sanitary and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in Article III of these regulations prior to approval of the final plat for the subdivision.

The required improvements shall be those specified in the approved infrastructure improvement plan(s) and said improvements shall be initiated within two years.

(b) As a condition of preliminary plat approval, the City Commission may require the applicant to deposit in escrow a deed describing by metes and bounds and conveying to the city all street rights of way, easements and public land required by these regulations, pending acceptance of improvements by the city and recording of the final plat. In the event the applicant is unable to complete the required improvements, and such improvements are deemed necessary for the preservation of the public health and safety, the city may compel the delivery of the deed in order to complete the improvements as required.

(F) *Improvement agreement and guarantee of completion of public improvements.*

(1) *Subdivision improvement agreement.* The City Commission may waive the requirement of Section 115.31(f)(1) for the completion of required improvements prior to issuance of building permits and, in lieu thereof, may require the applicant to enter into a subdivision improvement agreement by which the applicant covenants and agrees to complete all required public improvements no later than five years following the date upon which the final plat is signed. Such five year period may be extended for up to an

additional five years upon its expiration at the discretion of the Director of Public Works. The City Commission may also require the applicant to complete and dedicate some required public improvements prior to approval of the final plat and to enter into a subdivision improvement agreement for completion of the remainder of the required improvements during such five-year period. The applicant shall covenant to warranty the required public improvements for a period of two years following acceptance by the city of all required public improvements and shall provide a warranty that all required public improvements shall be free from defect for a period of two years following such acceptance by the city. The subdivision improvement agreement shall contain such other terms and conditions as are agreed to by the applicant and the city.

(2) *Covenants to run with the land.* The subdivision improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs and assignors of the applicant. The subdivision improvement agreement shall be recorded with the county recorder of deeds. All existing lienholders shall be required to subordinate their liens to the covenants contained in the subdivision improvement agreement.

(3) *Completion security.*

(a) Whenever the City Commission permits an applicant to enter into a subdivision improvement agreement, the applicant shall be required to provide sufficient security to ensure completion of the required public improvements. Such security shall be in the form of a surety bond, cash escrow or letter of credit.

(b) The surety bond, cash escrow or letter of credit shall be in an amount estimated by the Director of Public Works as reflecting the cost of the improvements in the approved construction plan and shall be sufficient to cover all promises and conditions contained in the subdivision improvement agreement.

(c) In addition to all other security, when the city participates in the cost of an improvement, the applicant shall provide a performance surety bond from the contractor, with the city as a co-obligor.

(d) The issuer of any surety bond shall be subject to the approval of the City Attorney.

(4) *Escrow agent.* If security is provided in the form of a cash escrow, the applicant shall deposit same with the Director of Finance and with an escrow agent mutually agreed upon by the Director and the applicant subject to City Commission

approval and audit, a cash amount or certified check, endorsed to the escrow agent for a face value in an amount not less than the amount specified by the Director of Public Works pursuant to Section 115-3-19(F)(3)(c).

(5) *Account*. The surety bond or cash escrow account shall accrue to the city for administering the construction, operation and maintenance of the improvements.

(6) *Warranty Bond/Maintenance Security*

(a) The applicant shall guarantee the improvements, excluding sidewalks and streetslights, against defects in workmanship and materials for a period of two years from the date of city acceptance of such improvements. The maintenance security shall be secured by a surety bond, cash escrow or letter of credit in an amount reflecting 50% of the cost of the completed improvements pursuant to Subsection 115-3-19(F)(3)(c).

(b) If the applicant has entered into a subdivision improvement agreement for the completion of requested improvements, the surety bond, cash escrow or letter of credit may be retained by the city in lieu of the warranty bond/maintenance security, provided the total amount of the surety bond, cash escrow or letter of credit reflects 50% of the cost of the completed improvements pursuant to Subsection 115-3-19(F)(3)(c).

(c) The applicant shall enter into a maintenance agreement with the city providing the applicant's guarantee of the improvements as required by Section 115-3-19(F)(6)(a). The maintenance agreement shall be accompanied by maintenance security in the form of a surety bond, cash escrow or letter of credit totaling 50% of the costs of all completed improvements pursuant to Subsection 115-3-19(F)(3)(c). The maintenance security shall run with the land and bind all successors, heirs and assigns of the applicant and shall be filed with the City Secretary's office.

(d) The city shall have the right, by ordinance, to waive the warranty bond/maintenance security on those sanitary sewers and street improvements constructed that were inspected and approved by the Director of Public Works and have been in use for two or more years.

(7) *Approval to be valid for 12 months*. Approval of a final plat shall be valid for a period of 12 months; provided, however, that this

period may be extended by the Planning and Zoning Commission upon written request by the subdivider.

(A) *When replat is not required.* When any lot and a portion of a lot or portions of lots aggregating a larger tract in width and/or size than the average lot in the block in which same is situated are conveyed as a single unit for a single use purpose from a previously legally platted subdivision, no replat thereof shall be required.

(B) *Exceptions:*

(1) This exception shall not apply to any extension across an easement or public way, nor permit changing the facing of the original lots.

(2) This exception is not to be construed as a waiver of any requirement of the zoning ordinance, as amended, or other applicable ordinance or recorded restriction, and for such interpretations, the integrated tract shall thereafter be considered as a single lot.

SEC. 15-3-20 CONCEPTUAL DEVELOPMENT PLAT

(A) In order to fully implement flexible zoning techniques such as planned unit development, applicants shall be required to submit applications for subdivision review simultaneously with applications for zoning approval. Depending upon the size and location of the proposed development, such applications shall conform with the subdivision application requirements of these regulations.

(B) Where the zoning ordinance authorizes planned unit development zoning applications that permit the use of land and density of structures to differ from that allowed as of right, and the application also involves the subdivision of land, whether residential or non residential, subdivision approval by the City Commission shall be required in addition to all other procedures and approvals required by the zoning ordinance, regardless of whether applicable zoning procedures also require City Commission approval, review or recommendation.

(C) *Requirements:*

- (1) When a planned unit development application is submitted that also involves the subdivision of land, the application shall first be submitted to the governmental body or official authorized to accept the application pursuant to the zoning ordinance.
- (2) The application for subdivision approval shall be made in the form of a conceptual development plat, containing, in addition to all of the requirements of the zoning ordinance, the following information:

a. A legal description of the property proposed to be subdivided.

b. Name of the proposed subdivision.

c. Date, scale, North arrow.

d. Property owner's name and address.

e. Description of all existing covenants, liens and encumbrances.

f. Name, address and seal or registration number of licensed engineer, architect or surveyor who has prepared the conceptual development plat.

g. Location of property lines.

h. Existing or planned easements, rights-of-way, streets or other public ways.

i. Measures of trees or individual trees of eight inches or more in diameter, measured four feet above ground level.

j. Names of adjoining landowners within 200 feet of any perimeter boundary of the proposed subdivision.

k. Location, sizes, elevations and slopes of existing sewers, water mains, culverts and other underground structures within the boundaries of the proposed subdivision and immediately adjacent thereto.

l. Existing permanent buildings.

m. Utility poles and utility rights of way on or immediately adjacent to the property proposed to be subdivided.

n. Approximate topography, at the same scale as required for a preliminary plat.

o. Approximate location and width of all proposed streets within and abutting the proposed subdivision.

p. Preliminary proposals for connections with existing water supply and sanitary sewerage systems and preliminary proposals for collecting and discharging surface water drainage.

q. Approximate location, dimensions and area of all proposed or existing lots.

r. Approximate location, dimensions and area of all parcels of land.

s. A disclosure statement that all or a portion of the subdivision falls within the AKCULZ; the disclosure statement to be displayed prominently with other required certificates.

SEC. 15-3-21 REPLATS AND AMENDING PLAT- GENERAL REQUIREMENTS

(A) Applicability and Terminology

- (1) The procedures outlined in this section shall apply only if a property owner seeks to change any portion of a plat that has been filed of record with the appropriate County.
- (2) The term "replat" includes changes to a recorded final plat, whether the change is effected by replating without variation or approving an Amending Plat.

(B) *City Action Required.* Unless otherwise specified, any change to a recorded plat shall be subject to approval by the City Commission.

(C) *Construction Management.* If the subdivision as replatted requires construction of additional improvements, the provisions of Section 15-3-45 through 15-3-57 shall apply. If the subdivision as replatted does not require any appreciable alteration or improvement of utility installations, streets, alleys, building setback lines, etc., then no Construction Plans shall be required.

(D) *Application and Approval Procedures.* Unless otherwise specified, application and all related procedures and approvals, including recordation, for a replat or Amending Plat shall be the same as specified for a Final Plat, as outlined in Section 15-3-19(A).

(E) Replats

- (1) *Purpose & Applicability.* A replat of all or a portion of a recorded plat may be approved in accordance with State law without variation of the recorded plat, if the replat:
 - (a) Is signed and acknowledged by only the owners of the property being replatted;
 - (b) Is approved after a public hearing; and
 - (c) Does not propose to amend or remove any covenants or restrictions previously incorporated in the recorded plat.
- 2) *General Notice and Hearing Requirements.* Published notice of the public hearing conducted by the City Commission on the replat application shall

be given as follows and in accordance with State law:

(a) Notice of the required public hearing shall be given no later than 15 days prior to the date of the hearing by:

1. Publication in an official newspaper or a newspaper of general circulation in the applicable City or unincorporated area (as applicable) in which the proposed replat property is located, and

ii. By written notice, with a copy of Section 212.013(c) of the Texas Local Government Code (as amended) attached, forwarded by the City to the owners of lots that are in the proposed subdivision and that are within two hundred feet (200') of the lots to be replatted, as indicated on the most recently approved municipal tax roll or in the case of a subdivision within the limit, the most recently approved applicable county tax roll of the property upon which the replat is requested. 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.

3) *Partial Replat Application.* If a replat is submitted for only a portion of a previously platted subdivision, the replat must reference the previous subdivision name and recording information, and must state on the replat the specific lots which are being changed along with a detailed "Purpose for Replat" statement.

4) *Special Replat Requirements.*

(a) *Applicability.* A replat without vacation of the preceding plat, in accordance with State law, 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

d. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two (2) residential units or lot.

(b) Exception. The requirements of this Section shall not apply to any approval of a replat application for a portion of a recorded plat if all of the proposed area sought to be replatted was designated or reserved for usage other than for single or duplex family residential usage. Such designation must be noted on the recorded plat or in the legally recorded restriction applicable to such plat.

(c) Notice and Hearing. Notice of the required public hearing shall be given as prescribed in 15.3.21(f)(2).

5) *Effect.* Upon approval and recording of the replat, it is controlling over the previously recorded plat for the portion replatted.

(f) *Amending Plat*

(1) *Purpose & Applicability.* The purpose of an amending plat shall be to provide an expeditious means of making minor revisions to a recorded plat consistent with the provisions of State law. The procedures of an amending plat shall apply only if the amending plat is signed by the applicants only and is solely for one or more of the following purposes:

(a) to correct an error in a course or distance shown on the preceding plat;

(b) to add a course or distance that was omitted on the preceding plat;

(c) to correct an error in a legal property description shown on the preceding plat;

(d) to indicate monuments not after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

(e) to show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;

(f) to correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot

numbers, addresses, street names, and identification of adjacent recorded plots.

(g) to correct an error in corners and distances of lot lines between two adjacent lots if

- i. both lot owners join in the application for amending the plat;
- ii. neither lot is subdivided;
- iii. the amendment does not attempt to remove recorded covenants or restrictions; and
- iv. the amendment does not have a material adverse effect on the property rights of the other owners in the plat.

(h) to relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement.

(i) to relocate one or more lot lines between one or more adjacent lots if

- i. the owners of all those lots join in the application for amending the plat;
- ii. the amendment does not attempt to remove recorded covenants or restrictions; and
- iii. the amendment does not increase the number of lots.

(j) to make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if

- i. the changes do not affect applicable zoning and other regulations of the municipality;
- ii. the changes do not attempt to amend or remove any covenants or restrictions; and
- iii. the area covered by the changes is located in an area that the municipal planning commission (or other appropriate governing body of the municipality) has approved, after a public hearing, as a residential improvement area, or

(k) to replot one or more lots fronting on an existing street if

- i. the owners of all those lots join in the application for amending the plat;
- ii. the amendment does not attempt to remove recorded covenants or restrictions;
- iii. the amendment does not increase the number of lots; and
- iv. the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

Notice. A hearing and the approval of other lot owners are not required for the approval and issuance of an amending plat.

SEC. 16.3.2. VACATING PLAT

(A) Purpose. The purpose of a Plat Vacation is to provide an expeditious means of vacating a recorded plat in its entirety, consistent with provisions of State law.

(B) Initiation of a Plat Vacation

(1) By Property Owner. The property owner of the tract covered by a plat may submit an application to vacate the plat at any time before any lot in the plat is sold.

(2) By All Lot Owners. If lots in the plat have been sold, an application to vacate the plat must be submitted by all the owners of lots in the plat.

(3) City Commission. If the City Commission determines that the plat should be vacated in the interest of and to protect the public's health, safety and welfare, and

a. No lots within the approved plat have been sold within five (5) years following the date that the Final Plat was approved by the City, or

b. The property owner has breached a Subdivision Improvement Agreement, and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor, or

c. The plat has been off record for more than five (5) years, and the City Commission determines that the further sale of lots within the subdivision or section presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

(C) Notice. Published notice of the public hearing on the Plat Vacation application shall be given in accordance with local and State law. The hearing shall be conducted by the City Commission.

(D) Action by the City Commission. The City Commission shall:

(i) Review the Plat Vacation application, the findings of

the Director of Planning & Development Services and any other information available. From all such information, the City Commission shall make a finding as to whether or not the plat should be vacated. The City Commission's decision on a Plat Vacation shall be final.

(2) Take one of the following actions:

- a. Approve the Plat Vacation.
- b. Approve the Plat Vacation with conditions which shall mean that the Plat Vacation shall be considered to have been approved once such conditions are fulfilled; or
- c. Deny the Plat Vacation.

SEC. 15-3-23. LOT LINE ADJUSTMENTS

(A) *Adjustment of lot lines between adjacent parcels.* No person shall record a deed or other document adjusting the property boundary not otherwise approved by the procedures of this section, unless a lot line adjustment is first approved by the director in the manner herein described.

(1) Requests for lot line adjustments shall be made on forms provided by the director, shall provide all information as defined in 15-3-19(A) for the proposal to be properly evaluated, shall be accompanied by the required filing fee and by the preliminary record of survey showing the proposed new parcel boundaries and including complete legal descriptions.

(2) After investigation and receipt of reports of other departments or affected agencies, the director shall approve the lot line adjustment, or approve it subject to conditions or exceptions necessary to conform to zoning and building ordinances or to facilitate relocation of existing utilities, infrastructure or encumbrances, or to assure that the record of survey made is properly recorded, provided it is found in writing that the proposed lot line adjustment conforms to local zoning and building ordinances.

(3) The time limits applicable to the approval or conditional approval of subdivisions as provided in Section 15-3-19(C) herein, shall apply to any such lot line adjustment.

If the proposed lot line adjustment is approved, the Director of Planning and Development Services shall sign the record of survey which shall contain a concise legal description of the adjusted property, supplied by the applicant and certified by a registered civil engineer or licensed land surveyor. Within 90 days following approval by the Director, three copies (one being on mylar) of the lot

line adjustment shall be filed by the city with the county recorder of deeds; after acknowledgment by the county recorder of deeds, the plat or copy shall be retained by the county recorder of deeds and two copies shall be returned to the city, one copy to be retained by the City Engineer and the other to be retained by the Director of Planning & Development Services. The applicant(s) shall bear all expenses in connection with the filing and the city shall not be required to file the lot line adjustment until the applicant(s) has paid the required filing fee.

SEC. 15.3.24. FILING FEES; RECORDING FEES

(A) *Filing fees.* Upon the submission of application for approval of the actions provided in this Section, a filing fee shall be paid to the city as provided below:

- (1) Minor Plat..... \$100.00
- (2) Preliminary Plat
 - Up to 0.99 acres \$115.00
 - One acre to 4.99 acres \$230.00
 - Five acres or more \$46.00 per acre
- (3) Final Plat
 - Up to 0.99 acres \$100.00
 - One acre to 4.99 acres \$200.00
 - Five acres or more \$40.00 per acre
- (4) Replat \$200.00
- (5) Amending Plat..... \$200.00
- (6) Conceptual Development Plat \$100.00
- (7) Vacating Plat \$50.00
- (8) Lot Line Adjustment \$50.00

No action by the Planning and Zoning Commission shall be valid until the filing fee has been paid. This fee shall not be refunded should the subdivider fail to make formal application for plat approval or should the plat be disapproved. The filing fee shall be waived when a preliminary plat is not required.

(B) *Recording fees.* Subdivider shall be responsible for all recording fees, which shall consist of \$50.00 for the first page and \$40.00 for each additional page.

SEC. 15.3.25. DISAPPROVAL RESTRICTED

No plat shall be disapproved nor the processing thereof delayed nor non-compliance with any requirement or condition not set forth in this article or otherwise required by law.

~~Secs. 15-3-20 to 15-3-29, Reserved.~~

~~Secs. 15-3-20 to 15-3-29, Reserved.~~

...

II.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

III.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this ordinance, for it is the definite intent of this City Commission that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

IV.

THAT this Ordinance shall be codified and become effective on and after adoption and publication as required by law.

INTRODUCED on this the 22nd day of September, 2014.

PASSED AND APPROVED on this the _____th day of _____, 2014.

Sam R. Fugate, Mayor

ATTEST:

Mary Valenzuela, City Secretary

APPROVED AS TO FORM:

Courtney Alvarez, City Attorney

EFFECTIVE DATE: _____, 2014