Article 25 | GATED COMMUNITIES, PRIVATE STREETS

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ARTICLE 25: GATED COMMUNITIES, PRIVATE STREETS

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ARTICLE 25: GATED COMMUNITIES, PRIVATE STREETS

SECTION 1 – DEFINITIONS

25.2.1 Definitions

Private Street: A private vehicular access way shared by and serving two or more lots, which is not dedicated to the public and is not publicly maintained. Private streets and alleys may be established only under the terms of the Unified Development Code. The term "private street" shall be inclusive of alleys.

SECTION 2 – PRIVATE SUBDIVISIONS, PRIVATE STREETS, AND GATED COMMUNITY REQUIREMENTS

25.2.2 ***Private Subdivision, private Streets, and Gated Communities shall meet the following requirements:***

1. The general provisions of the Unified Development Code (UDC) and other City Codes as they relate to development, streets, and utilities will apply to all such development. All plans concerning private streets or gated community(ies) are subject to review and approval by the Planning, Fire, Transportation and Public Works Departments.

2. The definition of a "subdivision" and "street", as contained in the UDC will apply to all subdivisions or streets, whether public or private.

3. ***Design and Construction Standards:*** Private streets shall conform to the same standards regulating the design and construction of public streets. These standards shall include, but are not limited to the following:

   a. Transportation Element of the Comprehensive Plan

   b. Thoroughfare Design Standards of the Master Transportation Plan

   c. Design standards for paving, drainage, water and sanitary sewer and Standards Specifications for Public Works Construction;

   d. Street naming and addressing policy;

   e. ***Streets Excluded:*** Streets shown on the Thoroughfare Plan of the Transportation Element of the Comprehensive Plan shall not be used, maintained, or constructed as private streets. Also, the City may prohibit the creation of any other private street if in the City's judgment the private street would negatively affect traffic circulation on public streets or impair access to property either on-site or off-site to the subdivision, impair access to or from public facilities including schools, parks and libraries, or delay the response time of emergency vehicles.

4. Any gate installation must conform to the following provisions:

a. All gate installations must be approved by the Directors of Transportation and Public Works prior to installation. The installation must be completed and tested prior to the City's acceptance of the subdivision.

b. Gate design may incorporate one or two gate sections to meet the required minimum gate width of twenty-four feet. If the entrance will incorporate a median, guard shack or similar structure that necessitates a divided gate arrangement, the gate widths may be reduced if approved by the Director**s** of Transportation and Public Works, but in no case shall any single gate or street pavement have a clear opening of less than twenty (20) feet.

If a gate design incorporates any overhead obstruction, said obstruction must be a minimum of fourteen feet (14') above the finished road surface.

c. Approach and departures areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. All entry gates must be setback a minimum of 100 ft from any adjacent public street right-of-way to allow for vehicle stacking out of the public travel lanes. Any exception must be approved by the Director of Transportation Services.

d. Automatic gate installations must conform to the design and performance guidelines established by the Fire Chief and Directors of Transportation and Public Works.

e. All components of the gate system must be maintained in an approved operating condition, with all components serviced and maintained on a regular basis as needed to insure proper gate operation. A proper power supply shall be maintained to all electrical and electronic components at all times.

f. Each security gate regulated under this section will be subject to a performance test as determined by either the Fire Chief or Directors of Transportation or Public Works. Upon failure of a performance test, the security gate system shall be disabled and maintained in the open position until repaired, and shall not be placed back in service until tested and authorized by the Fire Chief or Directors of Transportation or Public Works.

g. All streets, gates, and other fire protection features, signage, and equipment are subject to periodic inspection by the City and must be repaired immediately if found to be in condition of disrepair. The City shall have the right to enter the subdivision and disable, open, or remove any gate, device, or other feature that impedes or controls vehicle access at the sole expense of the Homeowner's Association. Emergency repairs shall be assessed against the Homeowner's Association.

h. The person or corporation in control of the property is responsible for, and liable for any violations of this section. This includes, but is not limited to, the developer, property owner, the Homeowner's Association and its officers, if applicable, or other who may own or exercise control over the property.

5. ***Property Associations Required:*** Subdivisions developed with Private Street and alleys must have a mandatory property owners association, which includes all property served by private streets. The association shall own and be responsible for the maintenance of private streets,

parks and other Homeowner Association appurtenances. The association shall own and be responsible for the maintenance of streets and other improvements. The association documents shall be reviewed by the City Attorney and subject to approval by the City to insure that they conform to this and other applicable City ordinances and concerns. The documents shall be filed of record prior to the approval of the final plat. Lot deeds may not be dissolved without the prior written consent of the City. No portion of the association documents pertaining to the maintenance of the private streets and alleys and assessments therefore may be amended without the written consent of the City.

6. ***Private Street Lot:*** Private streets and alleys must be constructed within a separate lot owned by the property owners association. This lot must conform to the City's standards for Public Street and alley right-of-way. An easement covering the street lot shall be granted to the City providing unrestricted use of the property for utilities and storm drainage systems and the maintenance of the same. This right shall extend to all utility providers including telephone/cable companies, operating within the City. The easement shall also provide the City with the right of access for any purpose related to the exercise of a governmental service or function, including but not limited to fire and police protection, inspection and code enforcement. The easement shall permit the City to remove any vehicle or obstacle within the street lot that impairs emergency access. Variation to streets and right-of-way widths must be approved by the City Planning and Zoning Commission.

7. ***Construction and Maintenance Cost:*** The City shall not pay for any portion of the cost of construction or maintaining a private street. The Homeowners Association shall maintain an escrow account as approved by the City for all road maintenance.

8. ***City Utilities:*** Water, sewer and drainage facilities placed within the Private Street and alley lot shall be installed to City standards and dedicated to the City as part of the approval of the final plat. All City regulations relating to infrastructure, financing, developer cost participation and capital cost recovery shall apply to developments with private streets with the exception of those applying to internal street construction.

   Streetlights and signs shall be installed and maintained by the homeowners association subject to approval by the City. The property association documents shall give the City the right, after giving written notice to perform maintenance upon streets and alleys to protect health, safety and welfare of the residents and to place a lien upon the lots within the association to recover the cost of such maintenance.

9. ***Plans and Inspections:*** Developments proposed with private streets must submit to the City the same plans and engineering information required to construct public streets and utilities. Requirements pertaining to inspection and approval of improvements prior to issuance of building permits shall apply. Inspection Fees charged for these services shall also apply.

   The City may periodically inspect private streets and require repairs necessary to insure emergency access.

10. ***Waiver of Services:*** The subdivision final plat, property deeds and property owners' association documents shall note that certain City services shall not be provided on private streets. Among the services that will not be provided are routine police patrols, street lighting, enforcement of

traffic and parking ordinances and preparation of accident reports. All private traffic regulatory signs shall conform to the Texas Manual of Uniform Traffic Control Devices. Depending on the characteristics of the proposed development, other services may not be provided.

11. ***Petition to Convert to Public Streets:*** The property association documents shall allow the association to request the City accept private streets and alleys and the associated property as public streets and right-of-way upon written notice to all association members and the favorable vote of 75% of the membership. However, in no event shall the City be obligated to accept said streets and alleys as public. Should the City elect to accept the streets and alleys as public, the City may inspect the private streets and assess the lot owners for the expense of needed repairs concurrent with the City's acceptance of the street and alleys.

    The City will be the sole judge of whether repairs are needed. The City may also require, at the association's expense, the removal of guardhouses, access control devices, landscaping or other aesthetic amenities located within the street lot. The association document shall provide for the City's right to such assessment. Those portions of the association documents pertaining to the subject matter contained in this paragraph shall not be amended without the written consent of the City.

12. ***Hold Harmless:*** On the subdivision final plat shall be language whereby the property owners association, as owner of the private streets and appurtenances, agrees to release, indemnify, defend and hold harmless the City, any governmental entity and public utility for damages to the private street occasioned by the reasonable use of the private street by the City, governmental entity or public utility, for damages and injury (including death) arising from the condition of said private street; for damages and injury (including death) arising out of the use by the City, governmental entity or public utility of any restricted access gate or entrance; and for damages and injury (including death) arising out of any use of the subdivision by the City, governmental entity or public entity. Further, such language shall provide that all the owners of all lots shall release the City, governmental entities and public utilities for such damages and injuries. The indemnifications contained in this paragraph 12 apply regardless of whether or not such damages and injury (including death) are caused by the negligent act or omission of the City, governmental entity or public utility, or their representative officers, employees or agents.

13. ***Sidewalks and Bikeways***

    a. *Sidewalks:* Sidewalks shall be constructed in accordance with the UDC for all lots adjoining dedicated streets, along major thoroughfares where lots do not adjoin the street or in other areas as required by the Director of Transportation Services. Sidewalks construction may be delayed until development of lots, but in locations not adjacent to lots and across bridges and culverts, the sidewalk shall be constructed with the other improvements to the subdivision or addition. Exceptions to this section must be approved by the Director~~s~~ of Transportation.

    b. *Pedestrian Accesses:* The City may require, in order to facilitate pedestrian access from the streets to schools, parks, playgrounds, or other nearby streets, perpetual unobstructed easements at least fifteen (15) feet in width. Easements will be indicated on the plat.

c. ***Bikeways:*** Hike and bike sidewalks, designed and located according to City standards, shall be constructed along streets designated for hike and bike trails. Such sidewalks shall be built by the owner at the time of site development, or the owner may petition for the city to construct such facilities, subject to escrow policies stated in the UDC.

14. Drainage and Storm Sewers

a. *General Requirements:* All plats shall conform to the City's UDC for drainage facilities.

b. *Design of Facilities:* Design of storm sewer systems shall be in accordance with City standards. Materials and construction shall conform to the Standard Specifications.

15. ***Secondary Access***

All gated subdivisions shall provide a secondary access point accessible by means approved by the Directors of Transportation and Public Works and the Fire Marshal for emergency services.

16. ***Federal requirements***

The Post Office requires 7-day access for mail delivery. If a security gate or fencing is used, a key keeper box with retractable key reel that will accommodate a post office arrow lock and/or the device (mechanical/electronic) needed to gain access into complex, must be installed next to the door or gate that the carrier uses to enter the complex. (Systems that use a key board to punch in codes, in most cases, will accept a post office arrow lock in the control panel).

Note: *Carriers must not carry keys, written codes, electronic openers or badges for entrance into buildings or complex.*