

ORDINANCE NO. 231121.001

AN ORDINANCE OF THE VILLAGE OF BEAR CREEK, TEXAS, AMENDING AND RESTATING ORDINANCE NUMBERS 211101.002 AND 20419.001 IN THEIR ENTIRETY TO COMBINE THEM INTO ONE ORDINANCE AND TO UPDATE THE CITY'S SUBDIVISION REGULATIONS TO ADDRESS CHANGES IN LAW DUE TO HOUSE BILL 3699; PROVIDING REGULATIONS FOR THE SUBDIVISION OF LAND LOCATED WITHIN THE VILLAGE OF BEAR CREEK; ADOPTING A PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS; PROVIDING DEFINITIONS; MANDATING WELL PLUGGING OCCUR WITHIN 75 DAYS FROM APPROVAL FOR ALL SUBDIVISION REQUESTS REQUIRING THE CAPPING OF A WATER WELL; REQUIRING ANY WELL PLUGGING TO BE PERFORMED IN ACCORDANCE WITH CURRENT TEXAS DEPARTMENT OF LICENSING AND REGULATION SPECIFICATIONS; PROVIDING FOR THE FILING OF THE STATE OF TEXAS PLUGGING REPORT WITH THE VILLAGE AND THE FILING BY THE VILLAGE OF A SUBDIVISION PLAT WITHIN 30 DAYS OF RECEIVING THE STATE OF TEXAS PLUGGING REPORT; PROVIDING SEVERABILITY, A PENALTY, EFFECTIVE DATE, OPEN MEETINGS CLAUSES, AND PROVIDING FOR RELATED MATTERS.

Whereas, it is necessary to provide for an orderly and efficient manner in which to regulate the subdivision of land within the Village of Bear Creek, and

Whereas, it is necessary to provide for the health, safety and welfare of the present and future residents of the Village of Bear Creek;

Whereas, the City Council of the Village of Bear Creek, Texas desires to adopt amendments to its subdivision ordinance to implement the changes in Chapter 212, Texas Local Government Code adopted by the Texas Legislature as House Bill 3699; and

Whereas, the City finds it necessary to amend its subdivision ordinance and adopt the amendments set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF BEAR CREEK, TEXAS, THAT:

Section 1. General

This Ordinance, effective as of the date hereof, excludes and does not apply to the City or land owned

by the City, but shall govern every other person, firm, partnership, association, corporation or other legal entity owning any tract of land within the corporate limits of the Village of Bear Creek, Texas.

Section 2. Definitions

Amending Plat refers to a legal process that makes minor changes or corrections to a previously recorded plat in accordance with Section 212.016 of the Texas Local Government Code, as amended.

Application refers to an application for a plan or plat approval under this Ordinance, which includes the plan or plat package, and unless context dictates otherwise, will include the Resubmittal Application for a plan or plat.

Applicant means a person applying for plan or plat approval under this Ordinance.

City means the Village of Bear Creek, Texas.

City Staff means the City Engineer, City Secretary, or other consultant or staff person designated by the City Council to review and approve construction plans.

Filing Date means, with respect to plan or plat, the date that plan or plat, along with a completed plat application and applications fees are submitted to the Municipal Authority. The City Secretary shall take delivery of submissions on behalf of the Municipal Authority.

Improvements means any street, alley, roadway, barricade, sidewalk, bikeway, pedestrian way, water line system, wastewater system, storm drainage network, public park land, landscaping, or other facility or a portion thereof that is required to be constructed to due to a subdivision or resubdivision.

Municipal Authority means the entity responsible for approving plats or plans governed by this Ordinance and as specified in the City's Subdivision Ordinance. Unless otherwise provided, City Staff, as further specified in this ordinance, is responsible for approving Construction Plans.

OSSF means On-Site Sewage Facilities as defined by the Texas Commission on Environmental Quality (TCEQ).

Plan or Plat. The phrase "plan or plat" or "plat or plan" when used in this Ordinance refers to Concept Plans, Preliminary Plats, Construction Plans, Final Plats, Minor Plats, Short Form Final Plats, and Amending Plats. Specifically, the term "plan" refers to Construction Plans and the term "plat" refers to Concept Plans, Preliminary Plats, Final Plat, Short Form Final Plat, or Amended Final Plat.

Private Well - Well located on the references plated property which draws subsurface water.

Replat means an alteration to an original recorded plat; a resubdivision.

Resubdivision means the division of an existing subdivision, together with any change of lot size therein.

Resubmittal Application means the application for a plan or plat resubmitted to the City following the disapproval or conditional approval of the original application or a Resubmittal Application that satisfies each condition of a conditional approval or remedies the reasons for disapproval.

Resubmittal Date means the date that a Resubmittal Application is determined to be complete and is accepted for review by the City.

Subdivision - The division of any lot, tract, or parcel of land into two (2) or more lots or sites for the purpose of sale, occupancy, use, rental, or building development or transfer of ownership, whether immediate or future. Such term shall include resubdivision of land or lots.

Survey - a survey sealed by a registered professional surveyor licensed in the state of Texas.

Section 3. Purpose

The City Council of the Village of Bear Creek does hereby adopt the following regulations to hereafter control the subdivision of land within the corporate limits of the Village of Bear Creek, Texas in order to provide for the safe, orderly and healthful development of the community and to secure adequate provisions for subdividing and providing water, sewage and other public facilities to the land. development of the community and to secure adequate provisions for subdividing and providing water, sewage and other public facilities to the land.

Section 4. Territorial Limits of Regulations

The territorial jurisdiction under this Ordinance shall include all land located within the corporate limits of the Village of Bear Creek, Hays County, Texas.

Section 5. City Council Approval Required

a. It shall be unlawful for any landowner, or the agent of any landowner, to lay out, subdivide, plat or replat any land into lots within the jurisdictional limits of the City without the approval of the Municipal Authority. It shall also be unlawful for any such owner or agent to offer for sale or to sell any such property therein or thereby which has not been laid out, subdivided, platted or replatted in accordance with this Ordinance.

b. The City will not allow any public utility service to any lot or subdivision for which an approved final plat is not filed with the City Secretary and the County Clerk.

c. No street number and no building permit shall be issued for the construction of any building, new structure or change, improvement or alteration of any existing structure, on any piece of property subdivided after the date hereof and no site development permit shall be issued for any lot or tract of land, unless said property has been subdivided or resubdivided in accordance with this Ordinance.

d. No application shall be made to the Hays County Environmental Health Department for the installation of an OSSF upon any lot in a subdivision for which final plat has not been approved and filed of record, or upon any lot in a subdivision in which the standards contained herein, or referred to herein, have not been complied with in full.

e. No improvements to be accepted by the City for ownership, maintenance and operation shall be accepted unless the requirements of this Ordinance and all applicable provisions of the City's ordinances are complied with in full.

f. Every official and employee of the City vested with the duty or authority to issue an approval, permit or certificate shall not issue an approval, permit or certificate for any Application, plan, plat, use, building, improvement, or purpose that conflicts with any provision of this Ordinance except as herein exempted or specifically exempted by the City Council or upon the written Application and approval of a variance. Any approval, permit, or certificate issued in conflict with the provisions of this Ordinance shall be null and void.

Section 6. Review, Approval and General Procedures

(a) **Action on Plats and Plans.** Plats and Plans for the development of land within the scope of this Ordinance shall be drawn and submitted to the Municipal Authority for their approval, conditional approval, or disapproval, as provided herein and as further detailed in Section 8 below. If an Application is approved with conditions or disapproved, the Municipal Authority shall provide or cause to be provided to the Applicant a written statement for the conditions for approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. Each condition or reason specified in the written statement shall include a citation to the law, ordinance or technical code that is the basis for the conditional approval or disapproval, as applicable. In the event that a Municipal Authority subject to quorum requirements fails to act due to lack of a quorum at the meeting at which an Application is posted for action, then: (i) the Application will be deemed approved if it meets the requirements of this Ordinance and applicable state law and was recommended for approval by City Staff; or (ii) the presiding officer of the Municipal Authority is authorized to disapprove an Application that is recommended by City staff to be disapproved due to failure to comply with this Ordinance or applicable law.

(b) **Commencement of Construction.** Notwithstanding any provision of this Ordinance to the contrary, an Applicant shall not commence construction activities within the City's jurisdiction before first obtaining all of the City approvals required by this Ordinance.

(c) **Pre-Development Meeting.** The Applicant is required to attend a pre-development meeting with city staff to help familiarize the Applicant with applicable codes and regulations before submission of the first plat or plan Application. The Mayor of the City or designee may waive this requirement if they deem that the meeting is not necessary.

- (d) **General Subdivision Process.** Generally, the subdivision process is comprised of four (4) individual steps, consisting of the Concept Plan, the Preliminary Plat, Construction Plans, and the Final Plat. Each step of the development process has established deadlines and expirations that must be met in order for the Application and any approval(s) granted to remain valid, in effect and eligible to continue to the next step of, or to complete, the development process. Compliance with each such established deadline constitutes a separate required performance and approval.
- (e) **Submittal Schedule.** The City Staff shall prepare an Application submittal schedule. This submittal schedule shall be reviewed and approved by the City Council annually. Applications will only be accepted for submittal or resubmittal on the days authorized by the schedule approved by the Commission. The City Staff is authorized to adjust an approved schedule to accommodate holidays, City Hall closures, and cancelled or special called meetings.
- (f) **Application Forms.** The City Staff shall prepare Application forms which shall include a checklist of the required information and documents that are required to be submitted by Applicants in order for an Application to be accepted as complete for review and processing under this Ordinance. The Application and checklist shall be posted and continuously maintained on the City's website. The City Staff shall update the Application from time to time as required due to amendments to this Ordinance, state law, or applicable technical codes and manuals. The updated Application and checklist shall be posted on the City's website within thirty (30) days of being updated. The Council shall review and approve the Application forms and amendments prepared by the City Staff from time to time.
- (g) **Application Completeness Review.** City staff shall review all Applications for completeness and either accept the Application as complete or reject the Application and provide the Applicant with written notice of rejection that specifies the reasons for rejection within ten (10) business days of the date the Application is submitted. An Application will be considered complete if it is submitted in the required form, includes all information certificates, plans, documents, and instruments required in the Application, this Ordinance and the checklist, and is accompanied by the applicable fees. All Applications shall also include a list of any requested variance or exceptions from the City's Ordinance. Resubmittal Applications are also subject to this Subsection (g). An Application that is facially not complete, i.e. does not include completed forms, the information or documents required in the Application are lacking, or it is not accompanied by the applicable fees will not be accepted by the City. If, after additional review, the Application is determined to be incomplete, the City Staff shall provide written notice of the rejection of the Application that includes a description of the Application's deficiencies. No further processing of the Application will occur until the deficiencies are corrected.
- (h) **Order of Acceptance.** No Preliminary Plat shall be accepted for filing until the Concept Plan has been approved. No Final Plat or Construction Plans shall be accepted for filing until the Preliminary Plat has been approved. Construction Plans will not be accepted for filing until a

TIA has been submitted to and accepted by the City. Any Plans or Plats tendered to the City prior to receiving the appropriate approvals as provided in this section shall not be accepted as received.

- (i) **Resubmittal Applications.** Resubmittal Applications are subject to the completeness review process set forth in this section. In addition to containing the portions of the original application that are being modified, the Resubmittal Application shall include a transmittal letter that describes how each reason for disapproval of the particular Plat or Plan that is the subject of the Resubmittal Application is being remedied or how each condition of a conditional approval is being satisfied, as applicable, and identifying the location in the Resubmittal Application where each remedy or response to a condition can be found. The transmittal letter shall further identify whether any other changes to the Application have been made other than those necessary to respond to the reasons for disapproval. A Resubmittal Application that modifies the original Application beyond what is required to satisfy a conditional approval or to remedy reasons for disapproval shall be considered a new Application and must be accompanied by the required Application fee and will be reviewed and processed in accordance with the deadlines and procedures applicable to initial Applications, including but not limited to the thirty (30) day approval deadlines.

- (j) **Incomplete Application Expirations.** An Application shall expire on the 45th day after the date the Application is submitted to the City if:
 - (i) the Applicant fails to provide documents or other information necessary to comply with requirements relating to the form and content of the Application set forth in this Ordinance;

 - (ii) within ten (10) business days of the date the Application is submitted to the City, the City provides the Applicant written notice of the failure that specifies the necessary documents or other information that are missing from the Application and the date the Application will expire if the documents or other information is not provided; and

 - (iii) the Applicant fails to provide the specified documents or other information within the time provided in the notice.

- (k) **Processing of Applications Accepted for Filing; Submittal and Resubmittal Schedule.**
 - (i) Prior to the Council meeting at which the Concept Plan is to be heard, City Staff shall review the plan for consistency with City codes, policies and plans.

 - (ii) The Application shall be scheduled for consideration by the Municipal Authority within thirty (30) days of the Application Filing Date (or within the applicable extension period if an extension is granted), or within fifteen (15) days of the Resubmittal Date, as applicable. For Applications acted upon by the City Council in addition to the Municipal Authority, the

Application shall be scheduled for consideration by the Council within thirty (30) days of the Municipal Authority's action on the Application (or within the applicable extension period if an extension is granted), or within fifteen (15) days of Municipal Authority's action on a Resubmittal Application, as applicable.

The City shall prepare an application submittal schedule. This submittal schedule shall be reviewed and approved by the City annually. Applications will only be accepted for submittal or resubmittal on the days authorized by the schedule approved by the City. The City is authorized to adjust an approved schedule to accommodate holidays, City Hall closures, and cancelled or special called meetings.

- (iii) City staff shall prepare a report analyzing the Application, and recommending action on the Application. If the recommended action is disapproval or conditional approval, the report shall include the reasons for disapproval or the conditions for approval, as applicable, and citations to the law or ordinance that is the basis for disapproval or the conditional approval.

(l) Approval, Disapproval, Conditional Approval.

(i)**Initial Application.** The Municipal Authority shall take action on the Application within thirty (30) days of the Filing Date. The failure of the Municipal Authority to act within thirty (30) days of the Filing Date (or within the timeframe agreed upon for an extension days of the Filing Date where an extension has been granted), shall be deemed an approval of the Plan or Plat by the respective body, except as otherwise agreed to by the Applicant pursuant to Section 7.

(ii)**Resubmittal Application.** After disapproval or conditional approval of an Application, the Applicant may submit a Resubmittal Application that addresses each condition of approval or remedies each reason for disapproval provided.

(iii)**Action on Resubmittal Application.** The Municipal Authority shall take action on the Resubmittal Application within fifteen (15) days of Resubmittal Date. If the City Council also approves an Application, the Council, within fifteen (15) days of the date of action on the Application by the Municipal Authority, shall take action on the Application. The failure of either the Municipal Authority to act within fifteen (15) days of the Resubmittal Date (or the Council to act within fifteen (15) days of action on the Resubmittal Application by the Commission, as applicable), shall be deemed an approval of the Plan or Plat by the Municipal Authority, if the Resubmittal Application satisfies all conditions of a conditional approval or remedies all reasons for disapproval, except as otherwise requested by the Applicant and approved by the Municipal Authority pursuant to Section 7.

(m) Application Expiration.

- (i) An Application shall expire six (6) months after the date that all initial staff review comments from all reviewing departments have been issued on the Application if the Application is not approved due to the Applicant's failure to cause the Application to comply with applicable city regulations.
- (ii) The Planning Department may grant one six (6) month extension if the Applicant can show substantial progress in obtaining approval of the Application. Substantial progress shall consist

of, at a minimum, a resubmission of the Application and all relevant materials by the Applicant that address all initial staff review comments from all reviewing departments.

(iii) After expiration of an Application, any new Application will be required to be re-submitted as a new Application including re-paying all of the fees associated with this process.

(n) **Approval Does Not Waive Compliance.** Approval of a Plan or Plat under this Ordinance does not waive any requirement or regulation under this Ordinance or an applicable City Code unless a waiver, exemption, or variance to such requirement or regulation is granted by the City employee, official, or body authorized to grant such waiver, exemption, or variance.

Section 7. Requests for Extension of Approval Deadline or Waivers of Procedures

a. The Applicant may request one thirty-day extensions of the thirty (30) day approval deadlines set forth in this Ordinance by requesting an extension on the Application form. The extension request will be considered by the Municipal Authority responsible for approving the particular Plan or Plat Application. Approval of an extension request will extend the deadline for approval of a Plan or Plat by thirty (30) days.

b. The Applicant may also request in writing the waiver of a deadline or procedure set forth in this Ordinance. If approved by the Municipal Authority, the waiver shall be documented by letter agreement or other form of agreement approved by the Municipal Authority.

Section 8. Preliminary Plat

a. Required Copies: Filing Deadline The subdivider shall submit a preliminary plat of the entire area being subdivided. Five (5) legible copies of the preliminary plat and accompanying data shall be submitted to the City Secretary no more than fifteen (15) and no less than ten (10) days before the next regularly scheduled City Council meeting during which the plat is to be considered. An application shall not be considered complete until all preliminary plat requirements have met and submissions made.

b. Plat Requirements

The plat shall be drawn to a scale as indicated on a legend included thereon and shall on an eighteen inch by twenty-four inch (18" x 24") paper and shall show and be accompanied by the following information:

1. The name of the subdivision, which shall not duplicate an existing or pending subdivision and shall include the name of the Village of Bear Creek.
2. A complete legal description by metes and bounds of the land being subdivided.
3. The total acreage of the land being subdivided, the total number of proposed subdivision, and the total acreage of each proposed lot.
4. The name of the owner (and address unless given in a letter of transmittal). If owner is a partnership, corporation or other entity other than an individual, the name of the responsible individual such as president or vice-president.

5. The name of the registered engineer and/or registered public surveyor responsible for preparing the plat.
6. North point, north to be at the top of the sheet if possible.
7. Date, each revision shall bear a new date.
8. Ownership boundaries shall be drawn in very heavy lines and shall include overall dimensions and bearings.
9. Boundary lines and adjacent right of way lines of the proposed subdivision shall drawn with dashed lines.
10. A tie to an appropriate landmarks as is required according to standard survey protocol.
11. The name and location of adjacent subdivisions, streets, easements, pipelines, watercourse, etc. and the property lines and name of adjoining property owners.
12. Existing and topographic and planimetric features within the subdivision, including watercourses and ravines, high banks, width of existing or proposed easement, if in the flood plain, contour lines at two (2) foot intervals and any other features pertinent to the subdivision.
13. Proposed features including approximate width and depth of all lots, location of building lines, easement and schematic plans and outline specifications for damage, sewage facilities and water facilities.
14. The one-hundred (100) year flood elevations and flood plain and floodway boundaries. Drainage easement to cover the limits of the 100-year Flood Plain and all waterways draining fifty (64) acres or more.
15. Complete dimension of front, rear and side lot lines.
16. Building setback lines for all lots
17. All right of way and easement to be dedicated to the City and size and dimensions of each.
18. A survey of the property shall show the lines of all adjacent land, streets and easements with their names and width.
19. The dimensions of the subdivision and each street, alley, square, park, other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.
20. For Replats and Amended Plats a copy of the currently recorded Plat shall be submitted.
21. City Staff may request copies of separate instrument easements, deeds or any other legal documents referenced in the plat be submitted for City review and files.

c. Processing Procedure and City Council Review

The City Secretary shall certify that the plat approval packet has been received and shall schedule the plat for a public hearing and consideration by the City Council within thirty (30) days of the filing date. The Council, within thirty (30) days of the filing date, shall hold a public hearing and either approve the preliminary plat or disapprove the preliminary plat. The failure of Council to act within thirty (30) days of the submission of the preliminary plat shall be deemed an approval of the preliminary plat by the Council, except as otherwise agreed to by the developer. The City Council shall hold a public hearing on the preliminary plat, after which it shall approve or disapprove the preliminary plat. The City Council shall review the preliminary plat for conformity with existing land use plans, zoning districts, and the standards and specifications set forth by City ordinances, resolutions and codes. If the plat approval packet is found to be deficient or incomplete, the City Council will either deny the

application or, if the applicant consents in writing to suspension of the review process and waiver of the requirement that the application be approved within thirty (30) days, suspend the review process until the required information is provided or deficiency is rectified.

d. Notice of Public Hearing for Certain Plats

1. Notice of the public hearing on the preliminary plat must be provided in accordance with this section for an application for a replat in which the preceding plat is not vacated if:
 - i. During the preceding five 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 residential units per lot; or
 - ii. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

2. Notice of the public hearing required by this section shall be given before the 15th day before the date of the hearing by:
 - i. Publication in an official newspaper or a newspaper of general circulation in the county in which the City is located; and
 - ii. By written notice to the owners of lots that are in the original subdivision and that are within 200 feet 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 extraterritorial jurisdiction, the most recently approved 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.
 - iii. The Applicant shall post signs along contiguous rights-of-way at each corner of the development and at intervals that do not exceed three hundred (300) feet between said corners. Signs and postings are subject to City standards and approval. Signs must be posted at least 15 days before the first public hearing, but shall not be posted more than 30 days in advance of the first public hearing.

e. City Council Approval/Disapproval

The City Council shall note its actions and any conditions of approval or reason for disapproval on two (2) copies of the preliminary plat. Of the two (2) copies, one shall be returned to the subdivider and one shall be filed with the City Secretary. If the City Council disapproves a proposed preliminary plat the subdivider shall be allowed to resubmit a revised preliminary plat which resolves the deficiencies on or before 180 days after the disapproval of the preliminary plat. If the subdivider fails to file revised preliminary plat on or before the 180 days after the disapproval of the proposed preliminary plat, the application for review shall be presumed to have been withdrawn by the applicant and the application expires. The City Secretary will notify the applicant of City Council's action and provide to the applicant a copy of the written report(s) resulting from City Council's review of the application.

f. Meaning of Approval of the Preliminary Plat by the City Council

Approval of the preliminary plat by the City Council only constitutes authority to proceed with the preparation of the final plat. If the City Council requires major changes - major changes including but not limited to changes in boundaries, building locations, easements, well placement, and septic system placement - submission of another preliminary plat is required. Any work done on the subdivision before the final plat is accepted by the City Council and recorded is done at the risk of the subdivider. In no case shall any development commence prior to City Council approval of the preliminary and final plat, except for development and construction of required improvements.

g. Expiration of Approval of Preliminary Plat

Approval of the preliminary plat expires at the end of six (6) months. The City Council may, upon written request received by the City Council prior to the expiration of the six (6) month period, grant an extension for no more than one six (6) month period.

Section 9. Final Plat

a. Required Copies

The subdivider shall provide five (5) legible white print copies of the final plat to the City Secretary after the preliminary plat has been approved and all required changes and alterations thereto have been made.

b. Final Plat to follow preliminary plat

No final plat will be considered by the City Council unless a preliminary plat has first been submitted to and approved by the City Council.

c. Filing Deadline

The final plat shall be filed with the City Secretary at least ten (10) days and no more than fifteen (15) days prior to the City Council meeting at which approval is requested.

d. Final Plat Requirements

The final plat shall contain all of the same information required in Section 8 of the preliminary plat; in addition, the final plat shall contain or be accompanied by:

1. The certificate of the registered engineer or licensed surveyor who surveyed, mapped and monumented the land shall be placed on the plat as follows:

THE STATE OF TEXAS
COUNTY OF HAYS

That I, _____, do hereby certify that I prepared this plat from an actual and accurate on-the-ground survey of the land and that the corner monuments shown thereon were properly placed under my personal supervision, in accordance with the subdivision regulations of the Village of Bear Creek, Texas.

Signature and Seal of Registered Engineer or Surveyor

2. A certificate of ownership and dedication to the required public of all right of way and easements, signed and acknowledged before a notary public by the owner(s) of the land and any holders liens against the land.
3. Approval of the City Council of the Village of Bear Creek, Texas. A certificate of approval to be signed by the Mayor and City Secretary shall be placed on the face of the plat as follows:

This plat, _____ has been submitted to and considered by the governing body of the Village of Bear Creek, Texas and is hereby approved by such Body. No structure on this subdivision shall be constructed unless a letter of approval has been approved and issued by the governing body of the Village of Bear Creek.

BY: _____
 Mayor Date
 Village of Bear Creek

ATTEST:

BY: _____
 Secretary Date
 Village of Bear Creek, Texas

4. Flood Plain Certification certificate of a registered professional engineer placed on the face of the plat as follows:

THE STATE OF TEXAS
 COUNTY OF HAYS

That I, _____, do hereby certify that the information contained on this plat complies with the Flood Plain ordinance adopted by the Village of Bear Creek, Texas. This Subdivision _____ within the 100 year Flood Plain, according to the F.E.M.A. Flood Insurance Rate Map for Hay County, Texas, Community Panel No. _____ dated _____. The fully developed concentrated storm water runoff resulting from the 100-year frequency storm is contained within easements and/ or public rights-of-way shown on this plat.

 Signature and Seal of Registered
 Professional Engineer

 Date

5. An abstractor's certificate accompanying the plat shall state the names and addresses of all current owners and lien holders of property described in the final plat. Such certificate shall be dated no sooner than ten (10) days prior to submission of the final plat. The final plat shall not be reviewed or approved until receipt of this certification.
6. The location of the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part.
7. Any and all notes or indexes required by Hays County Commissioners Court or Hays County Clerk to record the plat in the Hays County Records.

e. Processing Procedure and City Council Review

1. The City Secretary shall certify that the plat approval packet has been received and shall schedule the plat for a public hearing and consideration by the City Council within thirty (30) days of the filing date. The Council, within thirty (30) days of the filing date, shall hold a public hearing and either approve the final plat or disapprove the final plat. The failure of Council to act within thirty (30) days of the submission of the final plat shall be deemed an approval of the final plat by the Council, except as otherwise agreed to by the Applicant.
2. The City Council shall hold a public hearing on the final plat, after which it shall approve or disapprove the final plat. The City Council shall review the final plat for conformity with existing land use plans, zoning districts, and the standards and specifications set forth by City ordinances, resolutions and codes. If the plat approval packet is found to be deficient or incomplete, the City Council will either deny the application or, if the applicant consents in writing to suspension of the review process and waiver of the requirement that the application be approved within thirty (30) days, suspend the review process until the required information is provided or deficiency is rectified.
3. Prior to approval of the final plat:
 - (1) Construction plans for all required improvements shall have been approved by the City.
 - (2) All required improvements shall have been constructed, inspected, and accepted by the City.
 - (3) Applicable fees pursuant to City ordinance shall be paid.
 - (4) Notes shall be added to the plat describing any variances approved by the City Council.
 - (5) All other requirements of this Ordinance shall have been met.

g. Expiration of Approval of Final Plat. Approval of a Final Plat shall expire if said plat is not recorded in the plat records of the County within six (6) months of City approval.

Section 10. Amended Plat

a. Purpose. An Amended Plat that meets all of the informational requirements set forth in this Ordinance may be approved and recorded by the City without vacation of the preceding plat, without a public hearing, and without approval of other lot owners within the platted subdivision provided that

any persons with a vested interest affected by the plat amendment signs the plat and application; and that the purpose of the Amended Plat is:

1. To correct an error in any course or distance shown on the preceding plat; or
2. To add any course or distance that was omitted on the preceding plat; or
3. To correct an error in the description of the real property shown on the preceding plat; or
4. To indicate monuments set after death, disability, or retirement from practice of the engineer or surveyor charged with responsibilities for setting monuments; or
5. To show the proper location or character of any monument which has been changed in location, character, or shown incorrectly on the preceding plat; or
6. To correct any other type of scrivener or clerical error or omission as previously approved by the Commission and Council; such errors and omissions may include, but are not limited to: lot numbers, acreage, street names, and identification of adjacent recorded plats; or
7. To correct an error in courses and distances of lot lines between two (2) adjacent lots where lot owners join in the application for an Amended Plat and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat; or
8. To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement; or
9. To relocate one (1) or more lot lines between one (1) or more adjacent lots where the owner or owners of all such lots join in the application for the Amended Plat, provided that such amendment does not attempt to remove recorded covenants or restrictions, or Increase the number of lots.
10. To make necessary changes to the preceding plat to create six (6) or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:
 - (1) the changes do not affect applicable zoning and other regulations of the City;
 - (2) the changes do not attempt to amend or remove any covenants or restrictions; and
 - (3) the area covered by the changes is located in an area that the City Council has approved, after a public hearing, as a residential improvement area; or
11. To replat one or more lots fronting on an existing street if:
 - (1) the owners of all those lots join in the application for amending the plat;
 - (2) the amendment does not attempt to remove recorded covenants or restrictions;
 - (3) the amendment does not increase the number of lots; and

- (4) the amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

b. Format. The format of an Amended Plat shall be the same as the format for a Final Plat.

c. Content. The content of an Amended Plat shall be the same as the content requirements for a Short Form Final Plat, and shall include the following note: This subdivision is subject to all general notes and restrictions appearing on the plat of ____, Lot(s) ____, recorded at Cabinet ____, Slide ____ of the Plat Records of _____ County, Texas.

c. Procedure.

1. The Amended Plat may be submitted without re-approval of a Preliminary Plan or Construction Plans. The Amended Plat, prepared by a surveyor, and engineer if required, and bearing their seals shall be submitted to the City for approval before recordation of the plat. Public notification and public hearings shall not be required for an Amended Plat.
2. The amended plat shall be filed with the City Secretary at least ten (10) days and no more than fifteen (15) days prior to the City Council meeting at which approval is requested.
3. The City Secretary shall certify that the plat approval packet has been received and shall schedule the plat for consideration by the City Council within thirty (30) days of the filing date. The Council, within thirty (30) days of the filing date, shall either approve the amended plat or disapprove the amended plat. The failure of Council to act within thirty (30) days of the submission of the amended plat shall be deemed an approval of the amended plat by the Council, except as otherwise agreed to by the developer.
4. The City Council shall hold a public hearing on the amended plat, after which it shall approve or disapprove the amended plat. The City Council shall review the amended plat for conformity with existing land use plans, zoning districts, and the standards and specifications set forth by City ordinances, resolutions and codes. If the plat approval packet is found to be deficient or incomplete, the City Council will either deny the application or, if the applicant consents in writing to suspension of the review process and waiver of the requirement that the application be approved within thirty (30) days, suspend the review process until the required information is provided or deficiency is rectified.

d. Expiration. Approval of an Amended Plat shall expire if said plat is not recorded in the plat records of the County within six (6) months of City approval.

Section 11. Short Form Final Plats

a. Purpose. The provision of adequate data concerning land use, utility requirements, traffic impact, streets, easements and dedications is vital to ensure the continued health, safety and welfare of the

City's residents. Recognizing that the significance of this data is reduced for the small scale projects that are most heavily impacted by the burden of producing this data, the City allows alternate procedures for simple resubdivisions, lot splits, and the platting of existing development and of land proposed for site development where public improvements are not required.

b. Applicability. Applicants for subdivisions or resubdivisions creating no more than two (2) new lots may follow the procedure set forth below provided that the subdivision meets all of the following criteria:

1. The City shall certify that the proposed subdivision meets all the requirements of the Short Form Final Plat.
2. No new public street shall be necessary for each lot to access a public street.
3. No new public infrastructure including public water, wastewater or drainage facilities shall be necessary to serve the lots.
4. Each of the lots is contiguous with at least one (1) of the other lots in the subdivision for a distance of at least fifty (50) feet.
5. No off-site improvements to the City's infrastructure are determined to be necessary by the City.
6. No off-site drainage improvements are determined to be necessary by the City.
7. The City Council may require the standard Final Plat procedures outlined in this Ordinance, if the City determines that the plat is inconsistent with any element of the Master Plan, or any established City ordinances, codes or policies.
8. Each lot must have direct access to a public street.
9. Each lot must not have a FEMA designated floodplain nor can either lot contain a waterway draining 64 acres or more.
10. No traffic impact analysis is required to be conducted by Section 12(l).

c. Format. The format of the Short Form Final Plat shall correspond with the format for Final Plats as required by this Ordinance.

d. Content. The content of the Short Form Final Plat shall correspond with the content for Final Plats as required by this Ordinance, except that:

1. Construction plans may not be required.

2. The City may permit omission of any informational requirements that are determined by the City to place an excessive burden on the applicant, including, but not limited to contours, centerlines of existing watercourses, etc..
3. The City shall require the following note on the Short Form Final Plat: This subdivision is subject to all general notes and restrictions appearing on the plat of _____, Lot(s) _____, recorded at Cabinet _____, Slide _____ of Plat Records of _____ County, Texas.

e. Procedure. The procedure for review and approval of a Short Form Final Plat shall follow the procedure for Final Plats, except that:

1. The Short Form Final Plat may be submitted without approval of a Preliminary Plan or Construction Plans. The plat, prepared by a surveyor and engineer, if required, and bearing their seals, shall be submitted to the City Council for approval before recordation of the plat.

f. Notification. Notification procedures for a Short Form Final Plat shall be the same as those identified for Final Plat.

g. Approval. The approval process of a Short Form Final Plat shall be the same as the approval of a Final Plat.

Section 12. General Requirements

a. Lot Size

1. All subdivision requests (except as detailed below in section 2):

- A) If a lot is to receive water service by a private well, the minimum lot size is one hundred thirty thousand six hundred eighty (130,680) square feet or three (3) acres.
- B) No lot shall ever be less than eighty-seven thousand one hundred twenty (87,120) square feet or two (2) acres, and will be restricted from having a private well.

2. Septic permitting for grandfathered lots.

A lot shall be considered grandfathered for septic permitting purposes if:

- A) a lot was surveyed with intent to subdivide prior to April 8th, 1999, such intent being demonstrated by boundaries or proposed boundaries present on the survey and by the survey being dated prior to April 8th, 1999;
- B) a portion of the lot (henceforth "first parcel") has conveyed by metes and bounds according to the survey in (A), such that at the time of subdivision application the first parcel has a different owner than the remainder of the lot (henceforth "second parcel");
- C) the first parcel meets Hays County subdivision and on-site septic lot size

- requirements and is at least forty three thousand five hundred sixty (43,560) square feet, also known as one (1) acre;
- D) the second parcel meets Hays County subdivision and on-site septic lot size requirements and is at least forty three thousand five hundred sixty (43,560) square feet, also known as one (1) acre;
 - E) either the first parcel or the second parcel meets City subdivision lot size requirements given in Section 12.a.1, "All subdivision requests";
 - F) the first parcel has one or more Hays County Tax Assessor-Collector lot numbers (the "first set of lot numbers"), issued before April 8th, 1999, wherein the land for the first set of lot numbers comprises the entirety of the first parcel;
 - G) the second parcel has one or more Hays County Tax Assessor-Collector lot numbers (the "second set of lot numbers"), issued before April 8th, 1999, wherein the land for the second set of lot numbers comprises the entirety of the second parcel;
 - H) a habitable residence meeting the deed restrictions exists on the first parcel, or a Hays County septic permit has been obtained for the first parcel; and
 - I) a habitable residence meeting the deed restrictions exists on the second parcel, or a Hays County septic permit has been obtained for the second parcel;

Then the only lot size requirements on the first parcel and the second parcel are as listed in the preceding portion of this section (12.a.2), provided that the landowners, or agent of the landowners, provide in the subdivision application:

- A) metes and bounds from the survey prior to April 8th, 1999, or a copy thereof;
- B) written proof, valid on the date of subdivision application, of the ownership of the first parcel and second parcel, including an address and phone number for the owners;
- C) written proof of the existence of at least one Hays County Tax Assessor-Collector lot number prior to April 8th, 1999 applicable to the first parcel;
- D) written proof of the existence of at least one Hays County Tax Assessor-Collector lot number prior to April 8th, 1999 applicable to the second parcel;
- E) written proof of the existence of a habitable residence which complies with deed restrictions on the first parcel, or a copy of a Hays County septic permit obtained for part or all of the first parcel;
- F) written proof of the existence of a habitable residence which complies with deed restrictions on the second parcel, or a copy of a Hays County septic permit obtained for part or all of the second parcel;
- G) signed by each owner of any land within the lot either 1) a power of

- attorney giving the subdivision applicant power to complete the subdivision on their behalf, or 2) a letter stating the owner's approval of the proposed subdivision; and
- H) all other subdivision application requirements.

The subdivision so requested may only divide the original lot into the first parcel and second parcel.

b. Setback Requirements

1. No residential structure shall be located within:
 - a) Seventy-five feet (75') of any public road.
 - b) Twenty feet (20') of any side and rear property lines.
2. No pens, corrals, sheds, barns, animal pens or similar structures shall be located within:
 - a) One hundred fifty feet (150') of any public road.
 - b) Twenty feet (20') of any side and rear property lines.
3. No septic system shall be located within one hundred feet (100') of any well or habitable structure.

c. Easements

1. The conveyance or subdivision of any tract of land in the Village of Bear Creek shall be subject to any and all easements affecting the subject tract which have previously been recorded in the Deed Records of Hays County, Texas.
2. There shall also be reserved an easement ten feet (10') in width across the front, rear, and side property lines of each individual tract of land into which any tract of land in the Village of Bear Creek may be subdivided. These easements shall be for the purpose of the construction and perpetual maintenance of conduits, poles, wires, and fixtures for electrical service, lights, telephones, sanitary and storm sewers, road drains, and other public and quasi public utilities and for the purpose of trimming any trees which may at any time interfere with the maintenance of such utilities, with the right of ingress to and egress from and across said premises. It shall not be considered to be a violation of the provisions of these easements if wires and cables carried by such pole lines pass over some portion of such lots not within the reserved area as long as such lines do not interfere with or hinder the construction of buildings or use of the individual land. Reservation of such easements, either by plat or by separate instrument acceptable to the City shall be a condition of final plat approval.

d. Minimum lot frontage

The minimum width of a lot along a public road shall be 50 fifty feet (50').

e. Lot numbering

All lots shall be numbered consecutively, according to NENA Procedures.

f. Drainage

1. Adequate drainage shall be provided within the limits of the subdivisions.

2. All driveways shall be built to allow for proper drainage.
3. Where a subdivision is traversed by a watercourse, drainageway or channel conveying upstream offsite flow across the subdivision, there shall be provided a storm drainage easement conforming substantially to the limits of the 100-yr storm event, subject to determination by the City Engineer according to proper engineering considerations.

g. Flood Regulation

The City shall review each proposed subdivision to assure the following:

1. All proposals are consistent with the need to minimize flood damage.
2. All utilities are located to minimize flood damage.
3. Adequate drainage is provided to reduce exposure to flood hazards.
4. There are no obstructions to the natural flow of water.
5. The plans comply with the City driveway ordinance, 190218.001, as amended.

h. Requirements for Dedications

The division of land into two (2) or more tracts, lots, sites or parcels shall require the dedication or conveyance of areas, or parts of areas, or areas that abut the land being divided which provide for access, public right-of-way, or public improvement. The City requires a combined twenty five (25') feet wide right-of-way be dedicated of which not less than ten (10') feet of the dedication shall be for streets, roads, or rights-of-way and an additional dedicated right-of-way of not less than fifteen (15') feet wide for utilities, drainage facilities and/or pedestrian access to greenbelts or park areas.

1. All existing and proposed easements, safety lanes, and rights-of-way shall be clearly indicated on the plat or plan, as well as an indication to the use of each easement or right-of-way.
2. No permanent structure may be placed in or over any easement or right-of-way except a structure whose use and location are necessary to the designated use of the right-of-way or easement or which otherwise will not affect the use, maintenance or repair of such easement.
3. The width and alignment of all easements or rights-of-way to be dedicated shall be determined by the City Engineer, any applicable utility provider and the Commission, and approved by the Commission, and shall be accompanied by a notarized statement of dedication on the plat.
4. Easements shall be established and dedicated for all public utility and drainage appurtenances, including common access areas, and other public uses requiring dedication of property rights.
5. In so far as practicable, easements shall not be centered on a property line, but shall be located entirely on one (1) side of a lot.

i. Completion of improvements

If City Council and applicable City ordinances require that the applicant install public improvements, such as drainage, driveways, streets, or access to a water supply pipe, then the improvement must be constructed, inspected, and accepted by the City before the City may approve of the final plat. The

improvements shall be constructed in accordance with construction plans approved by the City prior to commencement of construction of the improvements. The applicant shall submit construction plans for review and approval by the City at the same time as or after preliminary plat approval.

Notwithstanding the approval of any plat or construction plans by the City, the developer and the engineer that prepares and submits such plats shall be and remain responsible for the adequacy of the design and nothing in this Ordinance shall be deemed or construed to relieve or waive the responsibility of the developer or his/her engineer for or with respect to any plat submitted.

j. Required Well Plugging

When a subdivision is approved that results in a lot being less than one hundred thirty thousand six hundred eighty (130,680) square feet or three (3) acres, the subdivider or owner of such lot shall be required within seventy-five (75) days of subdivision approval to have any water wells located on the lot plugged pursuant to Texas Department of Licensing and Regulation's ("TDLR") specifications. The plugging of wells shall be performed by a licensed well driller and/or licensed pump installer. Upon completion, the TDLR Plugging Report shall be provided to the City. Upon receipt, the City shall then file with Hays County the approved subdivision plat within thirty (30) days.

k. FM 1826 Access

No ingress or egress beyond existing infrastructure shall be authorized for subdivided lots with access to FM 1826.

l. Transportation Improvements

1. All transportation improvements, including streets, driveways, sidewalks, bikeways, traffic control, and parking areas within the City's jurisdiction shall be designed in accordance with and comply with City of Austin's Transportation Criteria Manual (the "TCM"), as currently amended, save and except the following:
 - a. Any property, except for a property used for a single family residence, proposing to connect to a public street by public street, private street, or driveway shall conduct a traffic impact analysis (the "TIA"). The TIA shall be conducted and submitted before Construction Plans are submitted to the City. The City will review the TIA for compliance with this Ordinance. The infrastructure identified on the TIA approved by the City shall be included in the Construction Plans and shall be constructed in accordance with the Construction Plans approved by the City.
 - b. A property located outside of the City limits shall not be permitted to connect to a public street located within the City limits.

Section 13. Variances

A variance to the provisions of this Ordinance shall be considered an exception to the regulations, rather than a right. Whenever a tract to be developed is of such unusual size or shape or is surrounded by development of such unusual conditions that the strict application of the requirements contained in

this Ordinance would result in substantial hardship or inequity, the City Council may vary or modify, except as otherwise indicated, such requirement of design as provided for herein, but not of procedure or improvements, so that the developer may improve his/her property in a reasonable manner, but so that at the same time, the public welfare and interests of the City are protected and the general intent and spirit of this Ordinance are preserved in accordance with the following provisions. A variance request must be submitted with the application for preliminary plat approval. A variance request shall be subject to the notification requirements set forth in Section 8.d. The applicant shall be required to provide the City with the list of property owners that are required to receive notice and shall bear all costs of notification.

Section 14. Schedule of Fees

The following non-refundable fees shall be paid into general fund of the Village of Bear Creek when any map, plat, or other similar document is tendered to the Village of Bear Creek, and the fees provided herein shall be paid in advance. Applications shall be denied if the fees are not paid before City Council considers the application at a City Council meeting.

- | | | |
|----|--------------------------|---|
| 1. | <u>Preliminary Plats</u> | <u>\$100.00 plus \$100.00 per each additional lot</u> |
| 2. | <u>Final Plats</u> | <u>\$100.00 plus \$100.00 per each additional lot</u> |
| 3. | <u>Variances</u> | <u>\$100.00 each</u> |
| 4. | <u>Resubmittals</u> | <u>\$100.00 each</u> |

The above fees shall be charged on all plats regardless of the actions taken by the city council or its representatives and agents.

Section 15. Additional Subdivision Fees

The Village of Bear Creek shall not incur any expense with regard to the development and/or improvement of any new subdivision. Prior to the action requested, the subdivider shall pay any additional costs to the Village of Bear Creek not covered by the fees schedule. In addition to fixed fees set forth in Section 14, the subdivider will be required to pay the City's cost and expenses for professional fees, including but not limited to engineering and legal review and approval prior to final plat approval. The cost of engineer and legal reviews shall be actual time spent by the City's professionals times the rate charged to the City. Subdivisions requiring more review may incur greater cost than those in compliance with the City's subdivision regulations.

Section 16. Savings Clause

All rights and remedies of the Village of Bear Creek are expressly saved as to any and all violations of the provisions of any ordinances affecting subdivision within the City which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 17. Amendment of Ordinances

Ordinance numbers 211101.002 and 20419.001 are hereby amended in its entirety and all ordinances or

parts thereof conflicting or inconsistent with the provisions of this Ordinance as adopted and amended herein, are hereby amended to the extent of such conflict. In the event of a conflict or inconsistency between this Ordinance and any other code or ordinance of the City, the terms and provisions of this Ordinance shall govern.

Section 18. Penalty

Any person, firm, partnership, association, corporation or other legal entity owning, possessing, using, or otherwise having legal authority over a parcel of property within the city's jurisdiction which violates any provision of this Ordinance or otherwise is not a recognized subdivision pursuant to Texas Local Government Code and other applicable provisions shall be guilty of a misdemeanor, and upon conviction shall be fined an amount not exceeding Two Thousand Dollars (\$2,000.00). Each day that such violation continues shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this Ordinance. This Ordinance may be enforced by a code enforcement officer or police officer of the Village or a City commissioner.

Section 19. Passage

This Ordinance shall take effect and be in force after its passage.

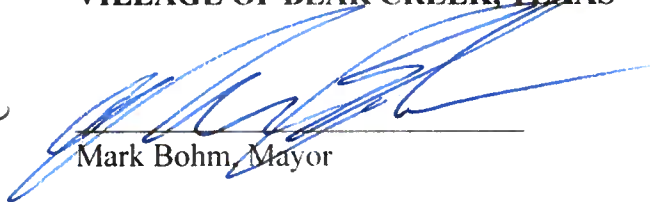
PASSED this 21 day of November 2023 at a regular meeting of the City Council of the Village of Bear Creek, Texas, there being a quorum present by 3 yeas and 0 nays, and approved by the Mayor on the date set out.

ATTEST:

VILLAGE OF BEAR CREEK, TEXAS



Kathryn Rosenbluth, City Secretary



Mark Bohm, Mayor