



ZPC Meeting Agenda

Notice is hereby given of a **regular meeting of the Zoning and Planning Commission** of West University Place to be held on **Thursday, October 10, 2019 at 6:15 pm** in the **Municipal Building**, 3800 University Boulevard, West University Place, Texas, for the purpose of considering the following agenda items:

Note: The Commission reserves the right to convene in a closed session for any agenda item if the need arises pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code

Call to Order

1. **Notices, Rules, Etc.** Matters relating to notices, introductions, rules, meeting procedures and updates.
2. **Public Comments.**
This is an opportunity for citizens to speak relating to agenda items. The speaker can either speak at this time or defer his/her comments until such time the item is discussed. Speakers are advised that comments cannot be received on matters which are the subject of a public hearing. Public comments must be kept relevant to the subject before the Board. The presiding officer shall rule on the relevance of comments. Persons making irrelevant, personal, impertinent, or slanderous remarks may be barred by the presiding officer from further comment before the Board during the meeting. Speakers must limit their presentations to three minutes each.
3. **Subdivision Ordinance (Chapter 74) Regulations.** Matters related to possible ordinance amendments and a presentation regarding said amendments to the subdivision ordinance (Chapter 74) of the Code of Ordinances of the City of West University Place, Texas.
4. **Property Maintenance Regulations.** Matters related to high grass and weeds, rubbish, stagnant water, etc.
5. **Noise Regulations.** Matters related to the general noise regulations regarding equipment, loudspeakers, construction activities, quiet hours, etc.
6. **Minutes.** Matters regarding approval of minutes from September 12, 2019.

ADJOURN

In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact the person that signs this below at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Municipal Building is wheel chair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area. Special seating will be provided in the Meeting Chambers.

I certify that the attached notice and agenda of items to be considered by the West University Place Zoning and Planning Commission on October 10, 2019 was posted on the Municipal Building bulletin board on or before October 7, 2019 at 6:00 o'clock pm.

D Scarcella

Debbie Scarcella, City Planner, dscarcella@westutx.gov, 713-662-5893



Agenda Item #3

Subdivision Regulation Revisions

Zoning and Planning Commission Meeting

Thursday, October 10, 2019 @ 6:15 PM

Presented by: David Baird, JD, AICP



Primary Revision Goals: Chapter 74, *Subdivisions*

- ✓ Ensure that Chapter 74 does not conflict with any other Chapters of the City Code
- ✓ Reorganize into a more intuitive and easier to use format
- ✓ Provide cross-referencing where appropriate to link Chapter 74 with the rest of the City Code
 - Appendix A, *Zoning Ordinance*
 - Chapter 18, *Buildings and Development*
 - Construction Design Manual
 - Stormwater Management Plan



Primary Revision Goals: Chapter 74, *Subdivisions*

- ✓ Develop an Enforcement and Remedies Article
- ✓ Add provisions for Text Amendments and Appeals
- ✓ Update, consolidate, and ensure definitions do not conflict with other City Codes
- ✓ Ensure duplication does not exist between Chapter 74 and other Chapters of City Code
- ✓ Formalize Development Review Process



Reorganization: Annotated Outline

Chapter 74, Subdivision Regulations	
Proposed Reorganization	Existing Sections Relocated
Article I, Authority, Purpose, Jurisdiction, and Applicability	
Sec. 74-1. - Purposes	Sec. 74-2
Sec. 74-2. - Jurisdiction	New
Sec. 74-3. - Applicability	Sec. 74-4(a)
Sec. 74-4. – Consistency with Zoning and City Plans	New
Sec. 74-5. – Transition Standards	New



Reorganization: Annotated Outline

Chapter 74, Subdivision Regulations	
Proposed Reorganization	Existing Sections Relocated
Article II, Subdivision Standards	
Sec. 74-11. – Lots	Sec. 74-109
Sec. 74-12. – Building Sites	Sec. 18-53; Appendix A: Sec. 5-100; Appendix A: Sec. 5-102 (excluding Table 5.1)
Sec. 74-13. – Blocks	New
Sec. 74-14. – Streets and Public Rights-of-Way	Sec. 74-114; <i>Cross Reference to City Street Construction Design and Specifications (in the process of being developed by City Staff)</i>
Sec. 74-15. – Access Management	New
Sec. 74-16. – Curbs, Gutters, and Sidewalks	Sec. 18-62
Sec. 74-17. – Easements	Sec. 74-113
Sec. 74-18. – Survey and Monument Specifications	Sec. 74-8; Sec. 74-110
Sec. 74-19. – Sewer, Water and Utility Connections	Sec. 74-111; Sec. 74-112
Sec. 74-20. – Construction Improvements	Sec. 74-6; Sec. 74-105; Sec. 74-106; Sec. 74-106(1);
Sec. 74-21. – Drainage, Stormwater and Flood Management	Sec. 74-113, <i>Cross Reference to Chapter 18, Article IX, and Stormwater Management Plan</i>



Reorganization: Annotated Outline

Chapter 74, Subdivision Regulations	
Proposed Reorganization	Existing Sections Relocated
Article III, Administrative Bodies	
Sec. 74-31. – Administrative Official	New
Sec. 74-32. – City Council	New
Sec. 74-33. – Development Review Committee (DRC)	New
Sec. 74-34. – Zoning and Planning Commission (ZPC)	Sec. 74-3
Article IV, Standardized Development Procedures	
Sec. 74-41. – Pre-Application Conference	New
Sec. 74-42. – Application Filing Process	Sec. 74-40; Sec. 74-41; Sec. 74-42
Sec. 74-43. – Application Completeness Review	New
Sec. 74-44. – Inactive and Expired Applications	Sec. 74-72(c)
Sec. 74-45. – City Acceptance of Improvements	Sec. 74-106(2) – Sec. 74-106(4)
Sec. 74-46. – Required Notice	Sec. 74-43



Reorganization: Annotated Outline

Chapter 74, Subdivision Regulations	
Proposed Reorganization	Existing Sections Relocated
Article V, Plats	
Sec. 74-51. – Table of Platting Requirements	New; Sec. 74-9
Sec. 74-52. – Preliminary Plats	Sec. 74-44; Sec. 74-45; Sec. 74-76
Sec. 74-53. – Final Plats	Article III [except 74-72(c)]; Sec. 74-108
Sec. 74-54. – Consolidated Preliminary and Final Plats	Sec. 74-10(c)
Sec. 74-55. – Minor Plat Amendments	Sec. 74-10(a-b); Sec. 74-39
Sec. 74-56. – Replats (Major Modifications)	New
Sec. 74-57. – Final Plat Vacation	New



Reorganization: Annotated Outline

Chapter 74, Subdivision Regulations	
Proposed Reorganization	Existing Sections Relocated
Article VI, Permits and Applications	
Sec. 74-61. – Building Permit	Sec. 74-5; Sec. 74-107
Sec. 74-62. – Floodplain Development Permit	<i>Cross Reference: Art. IX of Chapter 18</i>
Sec. 74-63. – Site Development Plan	Sec. 18-54; Sec. 74-4(b)
Sec. 74-64. – Site Drainage Plan	Sec. 18-56
Sec. 74-65. – Text Amendment	New
Sec. 74-66. – Variances	Sec. 74-7
Sec. 74-67. – Appeals	New



Reorganization: Annotated Outline

Chapter 74, Subdivision Regulations	
Proposed Reorganization	Existing Sections Relocated
Article VII, Enforcement and Remedies	
Sec. 74-71. - Violations	New
Sec. 74-72. – Penalties	New
Sec. 74-73. – Non-Judicial Remedies	New
Sec. 74-74. – Judicial Remedies	New
Article VIII, Definitions and Interpretation	
Sec. 74-81. – Rules of Construction	Appendix A: Sec. 2-100
Sec. 74-82. – Definitions	Sec. 74-1; Appendix A, Sec 2-102 (appropriate terms)



Important Additions and Amendments

- ✓ *Sec. 74-4, Consistency with Zoning and City Plans*
 - Ensures applications are consistent with Zoning and City Plans
- ✓ *Sec. 74-5, Transition Standards*
 - Ensures applications are processed under the regulations in effect at time of application filing



Important Additions and Amendments

✓ Sec. 74-11, *Lots*

- Clarifies lot consolidation and lot subdivision process
- Ensures only one primary structure per lot after completion of work permits
- Ensures accessory structures are not the only structure left on a lot after subdivision process

✓ Sec. 74-13, *Blocks*

- Establishes minimum and maximum block length
- Ensures unwanted alleys are not created



Important Additions and Amendments

✓ Sec. 74-15, *Access Management*

- Driveway distance of 35 feet from streets and other driveways
- Ensures driveways are not too close to each other

✓ Sec. 74-18, *Survey and Monument Specifications*

- Clarifies requirements for surveying

✓ Article III, *Administrative Bodies*

- Clarifies and identifies roles and responsibilities of Administrative Official and City Council
- Formalizes Development Review Committee (DRC)



Important Additions and Amendments

- ✓ *Sec. 74-41, Pre-Application Conference*
 - Formalizes and encourages applicant conference and communication with City Staff prior to project filing
- ✓ *Sec. 74-43, Application Completeness Review*
 - Establishes when an application is complete and deemed to be filed



Important Additions and Amendments

Table 74-46 Required Notice		
Type of Application	By Mail	By Publication
Plats		
Preliminary Plats	Not Required	Required ²
Final Plats	Not Required	Required ²
Consolidated Preliminary and Final Plats	Not Required	Required ²
Minor Plat Amendments	Not Required	Not Required
Replats	Required ¹	Required ²
Notes:		
1. Required per Texas Local Government Code (TLGC) Section 212.015, <i>Additional Requirements for Certain Replats.</i>		
2. Required per Texas Government Code (TGC), Chapter 551, <i>Open Meetings.</i>		



Important Additions and Amendments

Table 74-51 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross Reference
Preliminary Plats	Subdivision of real property	Required prior to final plat	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i> and Sec. 74-52, <i>Consolidated Preliminary and Final Plats</i>	Zoning and Planning Commission	Sec. 74-52, <i>Preliminary Plats</i>
Final Plats	Subdivision of real property	Required after preliminary plat and prior or concurrent with site development plan	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-53, <i>Final Plats</i>



Important Additions and Amendments

**Table 74-51
Platting Requirements**

Plat Type	Required For	Timing	Exceptions	Issued By	Cross Reference
Consolidated Preliminary and Final Plats	Subdivision of real property (only applicable for projects meeting the requirements of Sec. 74-54)	Prior or concurrent with site development plan	N/A	Zoning and Planning Commission	Sec. 74-54, <i>Consolidated Preliminary and Final Plats</i>
Minor Plat Amendments	Amendments to plats which fall under TLGC Sec. 212.016, <i>Amending Plat.</i>	Whenever requirements can be identified as being met	None	Administrative Official	Sec. 74-55, <i>Minor Plat Amendments</i>
Replats (Major Modifications)	Subdivision of real property	After plat approval when edits to a plat are necessary	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-56, <i>Replats (Major Modifications)</i>



Important Additions and Amendments

✓ *Sec. 74-65, Major Modification (Replat)*

- Establishes a process for a written petition and legal protest process for a prior plat decision
- Affirmative vote of three-fourths of ZPC required to reverse a previous decision

✓ *Sec. 74-67, Appeals*

- Establishes scope of review and procedures
- Identifies who can be a party to an appeal



Important Additions and Amendments

- ✓ Article VII, *Enforcement and Remedies*
 - Establishes procedures for noncompliance and complaints
 - Establishes what remedies City Staff may use without requiring approval of a court of law
 - Establishes what remedies City Staff are required to seek via a court order prior to attempting to enforce



Subdivision Regulation Revisions

Zoning and Planning Commission Meeting

Thursday, October 10, 2019 @ 6:15 PM

Presented by: David Baird, JD, AICP



Chapter 74, Subdivisions

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Article I. Purpose, Jurisdiction, and Applicability

Section 74-1 - Purposes

The purposes of this Chapter are to:

- A. Provide for the orderly and safe land development within the City;
- B. Promote the health, safety, and general welfare of the community;
- C. Ensure that new development is consistent with the City's most recently adopted Comprehensive Plan;
- D. Ensure that facilities to be accepted and maintained by the City are properly located and constructed; and
- E. Establish reasonable development restrictions that will neither infringe upon the Constitutions of the United States of America or the State of Texas nor create regulations that are arbitrary or capricious.

Section 74-2 - Jurisdiction

Unless otherwise noted all provisions of this Chapter apply within the municipal limits of the City of West University Place, Texas.

Section 74-3 - Applicability

All property proposed for subdivision within the municipal limits of the City shall be in accordance with this Chapter.

Section 74-4 - Consistency with Zoning and the City Plans

A. Zoning.

1. *Land Use.* No land contained in any proposed subdivision shall be reserved for any land use other than a use permitted within the zoning district where the property is located. (See Appendix A, *Zoning Ordinance*).
2. *Rezoning.* No subdivision approval shall be approved that requires a change in zoning until the rezoning request is officially approved in compliance with Appendix A, *Zoning Ordinance*.

- B. **Plans.** All subdivisions shall be consistent with the City's plans including, but not limited to, the City's most recently adopted Comprehensive Plan and Drainage Plan.

Section 74-5 - Transition Standards

A. Development Approvals Predating the Effective Date.

1. It is the City's intent to respect existing development approvals. Approved development may be carried out within the scope of the development approval, including applicable

standards in effect at the time of approval, provided that the approval was valid and has not lapsed per Section 74-44, *Inactive and Expired Applications*.

2. This section does not prevent the City from enforcing any provision of Chapter 18, *Buildings and Development*, or any other chapter of the City's Code of Ordinances.

B. Pending Applications.

1. Except as provided in subsection (B)2 below, each application for development approval shall be evaluated only by the adopted ordinances and technical regulations in effect at the time that each complete application is submitted.
2. Applications that are not pursued with due diligence may expire pursuant to Section 74-44, *Inactive and Expired Applications*.

Article II. Subdivision Standards

Section 74-11 - Lots

- A. **Lot Size.** All lots and tracts must conform to the regulations of Appendix A, Section 5-102, *Division of Building Sites*.
- B. **Lot Shape.**
 1. Lots shall be as rectangular as possible.
 2. Irregular shaped lots shall have sufficient width at the building line to meet the minimum width requirements of Appendix A, Table 5-1, *Building Site Dimensions*.
- C. **Lot Lines.** Side lot lines shall be at right angles or as close to right angles as possible.
- D. **Street Frontage.** Each lot shall have adequate access to an existing or proposed public street with the width of the street area to be not less than 40 feet.
- E. **Lot Consolidation.** Lots may be consolidated provided that:
 1. The minimum requirements of Appendix A, Section 5-102, *Division of Building Sites*, have been met; and
 2. Upon completion of any and all work permits none or only one of the applicable lots has a primary habitable building located on it.
- F. **Lot Subdivision on Previously Consolidated Lot.** Lots that have previously been consolidated may be subsequently subdivided again provided that the newly created lots:
 1. Satisfy all requirements of this Chapter and *Appendix A, Zoning Ordinance*; and
 2. Neither of the newly proposed lots would have an accessory building, accessory use, or accessory structure left on the property without a primary building.
- G. **Through Lots.** See Appendix A, *Zoning Ordinance*, Table 7-2, *Yards (or 'Setbacks'): Note 1: Through Lots or Building Sites*.

Section 74-12 - Building Sites

See Appendix A, *Zoning Ordinance*, Article 5, *Building Sites* and Section 18-53, *Building Sites*.

Section 74-13 - Blocks

- A. **Minimum Block Length.** Block length shall be a minimum of 500 feet.
- B. **Maximum Block Length.** Blocks shall not be more than 1,200 feet in length.

Section 74-14 - Streets and Public Rights-of-Way

- A. **Right-of-Way Width.** The City shall maintain the existing right-of-way width necessary to provide the paved streets and sidewalks that presently exist throughout the City.
- B. **Street Pavement Width.** The City shall maintain the existing street pavement width necessary to maintain the existing street network throughout the City.
- C. **Alleys.** The creation of new alleys is prohibited.
- D. **Private Streets.** The creation of new private streets is prohibited.
- E. **Street Lighting.** Street lighting shall be provided and meet the standards as provided in the City's *Construction Design Manual*^[U1].
- F. **Street Name and Traffic Signs.** All street name and traffic signs shall be provided by the City.
- G. **Traffic Impact Analysis.**
 - 1. Where a proposed new development may create either increased traffic, intersection congestion, or any transportation concern, the City may require the applicant to fund a traffic impact analysis.
 - 2. The applicant may be required to share with the City the cost of any traffic management facility as is roughly proportional to the new development.

Section 74-15 - Access Management

Driveways shall be located a minimum of 35 feet away from the intersection of streets or other driveways, measured from the curb return of the street to the curb return of the portion of the driveway closest to the street.

Section 74-16 - Curbs, Gutters, and Sidewalks

See Section 18-62, *Curbs, Gutters, and Sidewalks*.

Section 74-17 - Easements

- A. **Drainage and Stormwater Easements.** When a subdivision has a natural channel, stream, or drainage from an adjacent property, the final plat must dedicate a permanent drainage

easement to the City with sufficient width to accommodate the natural channel, stream or drainage, plus an additional width to accommodate projected future runoff.

- B. **Utility Easements.** Easements across lots centered on rear and side lot lines shall provide for utilities where necessary and shall be a minimum of 10 feet wide for two utility services (e.g., electric, gas, telephone, etc.) or 14 feet to 20 feet for two or more utility services.
- C. **Water and Wastewater Easements.** Easements required for water and wastewater shall be a minimum of 10 feet in width in the right-of-way of the front property line.
- D. **Encroachments and Removal of Encroachments.**
 - 1. *No Encroachments within an Easement.* No structures or permanent encroachments shall be allowed to be located within the area of any easement required by this Section.
 - 2. *Right of Removal.* While the City or utility provider benefiting from the easement will make efforts to minimize disturbances, both, however, shall have the right to remove any encroachment, structure, fence, landscaping (including overhanging limbs, shrubbery, or vegetation), or other improvements placed upon or over such easement.
 - 3. *Cost of Removal.* The City may assess the cost of removing an unauthorized improvement from an easement against the landowner, including the placing of a lien on the property.
 - 4. *Restoration.* The City and/or utility provider shall not be obligated to restore or replace any such encroachment but shall restore any disturbed ground surfaces with seeding.
- E. **Maintenance of Easements.** The responsibility for the regular maintenance of the ground surface in any easement shall rest with the owner of the property within which the easement exists.

Section 74-18 - Survey and Monument Specifications

A. Information Required.

- 1. *Generally.* The following shall be used for mapping natural resources or other features of subdivision plats, site development plans, or other plans or plats as otherwise required by this Section. In general, boundaries shall be measured as follows:
 - a. Measurements for the boundary are to be made horizontally, perpendicular from, or radial from any feature or point.
 - b. Boundaries that are dependent on elevation shall be based upon on-site elevations and shall not be interpolated.
- 2. *Waterbodies and Watercourses.*
 - a. *Floodplains.* All development within the City, not part of a previously approved plan or plat, shall show the boundary of the floodplain and floodway, if such exists on the site. Such delineation shall be by a registered professional land surveyor.

- b. *Streams*. Streams (perennial, intermittent, mapped, and unmapped) with identifiable banks and beds shall have their boundaries set at the top of the bank.
 - c. *Wetlands*. Wetlands shall be measured by the criteria of the U.S. Army Corps of Engineers.
 - d. *Other Waterbodies/Watercourses*. Initial identification of other waterbodies/watercourses not otherwise classified shall be made using the U.S. Geological Survey quadrangle maps or more accurate information, as available. Field survey verification to determine evidence and location of channelized flow is required for subdivision plats and site development plans.
3. *Topography*. Topographic lines are required and shall be drawn at one-foot contour intervals unless such intervals are impractical due to essentially flat topography.

B. Monumentation. Survey monuments shall be required.

- 1. *Monument Markers*. All boundary corners, angle points, or points of curvature or tangency, including block corners, lot corners, street intersections, and all angle points and points of curvature in street lines must be monumented by a surveyor using sufficient, stable and reasonably permanent survey markers.
- 2. *Monument Size and Material*. Each monument shall be described in such a way as to clearly define the size, type of material, and the nature of the monument (i.e., three-fourths-inch iron pipe, five-eighths-inch iron rod, cotton spindle, mag nail, etc.).
- 3. *Standards*. All monuments shall be set to the standard of the Texas Board of Professional Land Surveying Practices Act and the general rules of practices and procedures of the Texas Board of Professional Land Surveying and shall bear reference caps as indicated.
- 4. *Benchmarking*.
 - a. *Location*. A benchmark monument or survey marker of a sufficient, stable, and reasonably permanent nature shall be found or placed within the boundaries of or within 300 feet of the boundaries of the subdivision for project elevation control.
 - b. *Identification*. The placement of the benchmark with the location, description, and elevation of the benchmark shall be identified on the face of the plat.
 - c. *Reference*. All project benchmarks and all project elevations shall be referenced to the published National Geodetic Survey (NGS) datum adjustment of the current Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) for the property location. Equations may be used to translate other datum adjustments to the required adjustment.

Section 74-19 - Sewer, Water and Utility Connections

- A. **Generally.** All lots or tracts in subdivisions shall be provided by the applicant with a water supply, water distribution system, fire hydrants, and a sewer system that City's *Construction Design Manual*.^[U2]
- B. **Requirement for Permits.** See Section 18-64, *Utility Availability, Major Development*.

Section 74-20 - Construction Improvements

- A. **Construction Requirements.** See Section 70-261, *Construction and Maintenance of Structures*.
- B. **Performance Bond.**
1. *Bond Required.* Before starting any construction activity, including land clearing, an applicant must obtain a performance bond guaranteeing to the City the installation of all of the required improvements within a specified time.
 2. *Cost of Bond.* The cost of the performance bond is based on the estimated cost of the improvements and shall be in an amount approved by the Administrative Official.
- C. **Applicant Report upon Completion of Improvements.** When the required improvements of this section are completed, the applicant shall submit a written report to the Administrative Official stating that all required work has been completed in accordance with the approved plans and specifications.
- D. **City Acceptance.** See Section 74-45, *City Acceptance of Improvements*.

Section 74-21 - Drainage, Stormwater, and Flood Management

- A. **Drainage and Stormwater.**
1. Drainage facilities shall be installed so as to drain all lots in a subdivision and to handle incoming flows from natural channels, streams and other drainage, and the sufficiency of such facilities shall be approved by the Public Works Director.
 2. All water runoff shall drain into the street from the same lot address either naturally or through an internal drainage system, unless otherwise indicated on the final plat.
 3. For further information see the City's *Stormwater Management Plan*.
- B. **Flood Management.** See Chapter 18, Article IX, *Flood Damage Prevention*.

Article III. Administrative Bodies

Section 74-31 - Administrative Official

- A. **Right of Inspection.** The Administrative Official is empowered to enter any building, structure, or premises in the City upon which a development or land use is located, as follows:

1. Entry shall be for the purpose of inspection to ensure compliance with this Chapter or any other Chapter of the City's Code of Ordinances.
 2. Inspection shall be performed during business hours, unless an emergency exists.
 3. Inspection shall be made only after:
 - a. Contact and permission is granted by the owner or tenant; or
 - b. An order from a court of competent jurisdiction.
- B. **Interpretation.** The Administrative Official shall have the right to interpret provisions of this Chapter. Should an applicant not agree with the Administrative Official's interpretation, he or she has the right to appeal as per Section 74-67, *Appeals*.
- C. **Responsibilities.** The Administrative Official shall:
1. Establish deadlines for how far in advance an initial application must be submitted to be reviewed by either the City Council and/or the Planning and Zoning Commission;
 2. Provide application materials for applicants;
 3. Schedule and coordinate all Development Review Committee (DRC) meetings (See Section 74-33 - *Development Review Committee*);
 4. Decide all administrative approvals as per Section 74-51, *Table of Platting Requirements*;
 5. Complete a staff report for all proposals that request approval under this Chapter of the City's Code of Ordinances;
 6. Submit in writing to an applicant any specific conditions required as a part of conditional approval for any and all applications; and
 7. Enforce the provisions of Article VII, *Enforcement and Remedies* by:
 - a. Providing in writing the violation and/or the specific area(s) of noncompliance to the person deemed to be in violation of any provision of this Chapter;
 - b. Bringing violations and/or lack of compliance to the attention of the Planning Commission, City Council, or other appropriate agency; and
 - c. Issuing or undertaking any remedies as deemed necessary by Section 74-73, *Non-Judicial Remedies*, and Section 74-74, *Judicial Remedies*.

Section 74-32 - City Council

- A. **Establishment.** The City Council is established by the City of West University Place Home Rule Charter, Article II, *City Council*.
- B. **Powers and Duties.** The City Council reserves to itself all of the powers and duties that are not expressly delegated within this Chapter of the Code of Ordinances. (See Home Rule Charter, Section 2.08, *Powers of Council*).

Section 74-33 - Development Review Committee (DRC)

A. **Membership.**

1. The Development Review Committee (DRC) shall be comprised of the City Staff designated by the Administrative Official and representatives from each referral agency that reviews development projects in conjunction with the City.
2. Based on the nature of the application, DRC meetings can be limited to those staff and agencies affected by the development, or can be expanded to include additional agencies or staff with review responsibilities.

B. **Meetings.** DRC meetings shall be convened by the Administrative Official, as necessary.

C. **Responsibilities.** The DRC shall have the role to review and provide technical recommendations concerning any application specified in this Chapter of the City's Code of Ordinances.

Section 74-34 - Zoning and Planning Commission (ZPC)

A. **Establishment.** The Zoning and Planning Commission (ZPC) is established by Home Rule Charter, Section 5.03, *Zoning and Planning Commission*.

B. **Powers.** Unless otherwise designated, the ZPC shall have the responsibility for the approval of all plans, plats, and permits as designated by this Chapter in accordance with Texas Local Government Code (TLGC) Chapter 212. (*See Home Rule Charter, Section 5.04, Zoning and Planning Commission: Powers and Duties*).

Article IV. Standardized Development Procedures

Section 74-41 - Pre-Application Conference

A. **Applicant Responsibilities.** An applicant shall:

1. Consult early and informally with the Administrative Official; and
2. Avail himself to the advice and assistance of the Administrative Official.

B. **Administrative Official Responsibilities.** The Administrative Official shall:

1. Informally confer with the applicant; and
2. Advise and assist the applicant in the procedure for approval of plats and on regulations and policies of the City regarding development within the corporate limits.

Section 74-42 - Application Filing Process

A. **Generally.** Every process established by this Chapter of the Code of Ordinances shall be submitted on a form approved by the City with the appropriate application fee in accordance with Appendix E, *Fees and Charges Schedule*, of the City's Code of Ordinances.

B. Payment of Fees.

1. All fees for all plats (regardless of whether it is an original submittal or resubmittal) shall be paid at the time of application submittal.
2. No plat, permit, or application shall be approved unless and until such costs, charges, fees, or expenses are paid in full.

C. **Forms.** The City may revise any applicable form to comply with any new or revised requirements of this Chapter.

D. **Title Report.** A current title report (within the past 60 days as of the application date) is required to be filed with the City as part of the application process for any and all plats. (See Article V, *Plats*.)

E. Time and Location of Hearing.

1. *30 Day Requirement.* For all matters properly brought before the City Council or the ZPC, the date of the meeting shall be no later than 30 days following the submission of a complete application per Section 74-43, *Application Completeness Review*.
2. *Specific Time and Location.* Provided that the 30-day time requirement as discussed in subsection E(1) is met, the City shall be responsible for selecting a reasonable time and place for the hearing to be held.

F. **Denial and Resubmittal of Plat.** An applicant may not submit an additional application for subdivision of the same lot or tract within 12 months of the date of denial unless the applicant can show to the ZPC's satisfaction that there is a material change in circumstances related to the application.

Section 74-43 - Application Completeness Review

A. **Generally.** Upon receipt of an application pursuant to this Chapter, the Administrative Official shall provide the applicant with a dated receipt. Within ten working days of receipt of an application, the Administrative Official shall review the application and determine if:

1. The application includes all required materials and information; and
2. Those parts of the application which are required to be prepared by licensed professionals are, in fact, prepared by such professionals.

B. Determination of Completeness.

1. If the application is complete, the Administrative Official shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application.
2. No application is complete until all up-front fees for review are paid.
3. The time period for processing an application after completeness review does not start unless the fees are paid.

4. Once an application has been accepted by the Administrative Official, the filing fee is non-refundable.

C. **Determination of Incompleteness.** If the application is incomplete, the Administrative Official shall notify the applicant in writing, specifying the additional materials or information required to complete the application. The applicant shall provide these materials within ten working days of the request or the application will be withdrawn. An application that is withdrawn may be re-filed at a future date however a new filing fee will be required.

Section 74-44 - Inactive and Expired Applications

A. **Generally.** Applications must be diligently pursued by the applicant. This Section includes procedures to void applications that become stale due to applicant inaction.

B. **Expiration of Applications.**

1. *Inactive.* An application becomes an "inactive application" for failure to comply with this Chapter, preventing it from being docketed for action or approved.

2. *Stale.*

a. *Generally.* Inactive applications become "stale" after 90 days of the filing of the application if the applicant fails to address staff or referral agency review comments.

b. *Exception.* When the applicant is actively pursuing action to address comments in coordination with staff, in which case the application shall become stale after 180 days of the date when the action was originally requested.

3. *Void.* Stale applications are automatically voided six months after the original date when the action was requested if the applicant fails to take action or requests an extension of time for cause.

4. *No Refund of Fees.* If a plat becomes stale and is voided, application fees will not be refunded and a new application and fees are required to file a subsequent plat.

C. **Extension of Time.** Prior to a stale application being voided, an application may be extended for up to six months upon written request of the applicant for cause only.

D. **Change in Ordinance Provisions.** If the City amends this Chapter or adopts other regulations during the period of time when an application is inactive and/or stale, the application shall not be subject to compliance to the new regulations unless the application becomes void.

Section 74-45 - City Acceptance of Improvements

For the City to accept the dedication of any public infrastructure improvement the following procedural steps are required:

- A. **Applicant Report.** See Section 74-20.C, *Applicant Report upon Completion of Improvements*.
- B. **City Staff Review.**
 - 1. The City's Director of Public Works shall approve all water and sewer facilities.
 - 2. The City's Building Official shall complete a satisfactory final inspection confirming that all work, cleanup, and requirements of the ZPC have been completed.
- C. **City Council Acceptance.** Upon satisfactory completion of the applicant report and City Staff report, the City Council shall formally accept the public improvements and release any excess funds held in the performance bond that the applicant was required to post in accordance with Section 74-20.B, *Performance Bond*.

Section 74-46 - Required Notice

- A. **Generally.** Notice of any ZPC hearing on a subdivision application, whether by publication or by mail, shall be given as required by TLGC Chapter 212.
- B. **Content of Notice.** Notice shall include:
 - 1. The date, time, and place of the hearing;
 - 2. Staff contact and phone number;
 - 3. A full legal description of the property ; and
 - 4. A statement that the public is invited to review and comment on the application.
- C. **Constructive Notice.**
 - 1. *Minor Defects.* Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if there was a bona fide attempt to comply with applicable notice requirements. Minor defects in notice shall be limited to errors in a location map, typographic or grammatical errors, or errors of actual acreage that do not impede communication of the notice to affected parties.
 - 2. *Failure to Receive Notice.* Failure of a party to receive written notice, when notice has been actually mailed, shall not invalidate subsequent action.
 - 3. *Questions Concerning Adequacy of Notice.* If questions arise regarding the adequacy of notice, the City Council or the ZPC may direct City Staff to make a formal finding as to whether there was substantial compliance with the notice requirements of this Chapter and the TLGC.
- D. **Types of Required Notice.**
 - 1. *By Mail.* Notice by mail, when required, shall be provided to each property owner, as required by law, and as indicated by the most recently approved municipal tax roll of real property.

2. *By Publication.* Notice by publication, when required, shall be provided in accordance with the requirements of the TLGC.

E. **Computation of Time Requirement.** In computing the time periods for notice, the day of mailing, publication, or posting shall not be counted, but the day of the public hearing shall be counted.

F. **Required Notice Table.** Table 74-46, *Required Notice*, sets out the specific notice requirements for each type of application when notice is required.

Table 74-46 Required Notice		
Type of Application	By Mail	By Publication
Plats		
Preliminary Plats	Not Required	Required ²
Final Plats	Not Required	Required ²
Consolidated Preliminary and Final Plats	Not Required	Required ²
Minor Plat Amendments	Not Required	Not Required
Replats	Required ¹	Required ²
Notes:		
1. Required per Texas Local Government Code (TLGC) Section 212.015, <i>Additional Requirements for Certain Replats.</i>		
2. Required per Texas Government Code (TGC), Chapter 551, <i>Open Meetings.</i>		

Article V. Plats

Section 74-51 - Table of Platting Requirements

Table 74-51 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross-reference
Preliminary Plats	Subdivision of real property	Required prior to final plat	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i> and Sec. 74-52, <i>Consolidated Preliminary and Final Plats</i>	Zoning and Planning Commission	Sec. 74-52, <i>Preliminary Plats</i>
Final Plats	Subdivision of real property	Required after preliminary plat and prior or concurrent with site development plan	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-53, <i>Final Plats</i>

Table 74-51 Platting Requirements					
Plat Type	Required For	Timing	Exceptions	Issued By	Cross-reference
Consolidated Preliminary and Final Plats	Subdivision of real property (only applicable for projects meeting the requirements of Sec. 74-54)	Prior or concurrent with site development plan	N/A	Zoning and Planning Commission	Sec. 74-54, <i>Consolidated Preliminary and Final Plats</i>
Minor Plat Amendments	Amendments to plats which fall under TLGC Sec. 212.016, <i>Amending Plat.</i>	Whenever requirements can be identified as being met	None	Administrative Official	Sec. 74-55, <i>Minor Plat Amendments</i>
Replats (Major Modifications)	Subdivision of real property	After plat approval when edits to a plat are necessary	See TLGC Chapter 212, <i>Municipal Regulation of Subdivisions and Property Development</i>	Zoning and Planning Commission	Sec. 74-56, <i>Replats (Major Modifications)</i>

Section 74-52 - Preliminary Plats

A. Required Plat Specifications. The preliminary plat shall show the following:

1. The names, addresses, and telephone numbers of the record owner of the lot, tract or parcel proposed to be subdivided, and the owner's agent, if any.
2. A description, by metes and bounds, of the proposed subdivision and of the lot, tract or parcel from which the subdivision is proposed.
3. Subdivision boundary lines (indicated by heavy lines) and other lot lines in the immediate vicinity.
4. The computed area of the subdivision, each lot in the subdivision, and a number or letter to identify each lot or tract.
5. A north arrow.
6. The date of plat preparation.
7. The scale of plat which shall be one inch equals 20 feet minimum.
8. The front building setback lines on all lots and tracts.

9. The side yard building setback lines on corner lots, if applicable.
 10. The street to which the lot or tract is dedicated and the proposed street address (if available).
 11. The proposed easements for drainage, public utility easements and streets, both public and private.
 12. The standards as set out in Section 74-18, *Survey and Monument Specifications*.
 13. A location inset, preferably in the upper right corner of the plat, to show the subdivision in relation to well-known streets, streams, and natural channels in all directions for a distance of at least one-fourth mile.
 14. All proposed rights-of-way must be separately identified as distinct from other lots on the plat.
- B. **Required Submittals.** Applicants shall submit the following prior to the City determining whether all elements of the application are complete via Section 74-43, *Application Completeness Review*:
1. Full Filing Fee as provided on the City's Schedule of Fees.
 2. An electronic copy in PDF format which can be easily printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" that meets or exceeds the requirements of this section.
 3. Letter of transmittal, stating briefly the type of street surfacing, drainage, sanitary facilities, and water supply proposed.
 4. The name and address of the owner and/or the owner's agent.
 5. A statement of the extent of the applicant's ownership.
 6. A boundary description of the land.
 7. A notarized certificate on the face of the plat, executed by the applicant, which certifies that all of the following is fully shown and accurately identified:
 - a. All existing encumbrances, such as all easements for utilities and drainage;
 - b. Significant topographical features; and
 - c. All of the contiguous land which the applicant owns or has a legal interest in.
 8. Plans and engineering calculations which shall all contain the seal and signature of a registered professional engineer.
 9. Any additional supplemental materials as applicable in other sections of this Chapter.
- C. **Action by Zoning and Planning Commission (ZPC).** The ZPC shall within 30 days after the preliminary plat has been properly filed and the requirements of Section 74-43, *Application Completeness Review*, have been satisfied:
1. Conclude either:
 - a. Approval;

- b. Approval with conditions; or
 - c. Disapproval; and
 - 2. Record the action taken on two copies of the preliminary plat.
- D. Conditional Approval.**
- 1. Conditional approval shall be considered to be the status of a plat or replat until such conditions are complied with.
 - 2. All conditions imposed as part of a conditional approval, shall be furnished to the applicant in writing.
- E. Effect of Approval.**
- 1. Approval of the preliminary plat shall be deemed an expression of general approval of the layout of streets, water, sewer and other required improvements and utilities and shall not constitute acceptance of the final plat.
 - 2. Should an applicant decide to not move forward with a final plat application, there is no requirement that an approved preliminary plat be formally vacated.
- F. Effect of Disapproval.** Should the ZPC disapprove a plat, the ZPC shall within ten business days notify the applicant in writing of the actions taken and the reasons for why said action was taken.
- G. Effect of No Decision.** If no decision is rendered by the ZPC within 30 days after the preliminary plat has been filed and the requirements of Section 74-43, *Application Completeness Review* have been satisfied, the preliminary plat, as submitted, shall be deemed to be approved.
- H. Expiration.** Preliminary plat approval will expire six months after the approval by the ZPC. For this reason, there is no requirement that a preliminary plat that has been approved be vacated, should an applicant decide against moving the project forward.
- I. Extension.** The applicant may apply in writing for an extension prior to the end of such six month period. This period may be extended six months, but not beyond a total of one year.
- J. Required Notice.** See Section 74-46, *Required Notice*.

Section 74-53 - Final Plats

- A. Conformance to Preliminary Plat.** The final plat and accompanying data shall conform to the form and content of the preliminary plat and other required data as conditionally approved by the ZPC incorporating any and all changes, modifications, alterations, corrections and conditions as set out in the letters of preliminary approval from the ZPC.
- B. City Not Liable to Furnish Improvements.** The acceptance of a final plat by the city does not in any manner obligate the City to finance or furnish any storm sewers, drainage

structures, street, water, sewer improvements or any other items or improvements whatsoever.

- C. **Easements.** The final plat must clearly document all easements that are required by Section 74-17, *Easements* and any of provisions of this Municipal Code.
- D. **Right-of-Way Dedication.** Rights-of-Way intended for public facilities shall be properly dedicated to public use and title transferred to the appropriate public agency. The final plat must provide clear evidence of the intent to complete this transfer.
- E. **Required Notice.** See Section 74-46, *Required Notice*.

Section 74-54 - Consolidated Preliminary and Final Plats

- A. **Applicability.** The applicant may, at his option, elect to combine the preliminary plat and final plat process, whenever the following conditions are satisfied:
 - 1. The tract of land is to be re-subdivided into no more than three lots; and
 - 2. The dedication of streets, utilities, and infrastructure is not required.
- B. **Required Notice.** See Section 74-46, *Required Notice*.

Section 74-55 - Minor Plat Amendments

- A. **Applicant Responsibilities.** An applicant requesting a minor plat amendment shall submit to the Administrative Official:
 - 1. An electronic copy in PDF format which can be easily printed at a scale of 24 x 36 inches and stamped "Preliminary Plat" that meets or exceeds the requirements of this section; and
 - 2. A statement:
 - a. Detailing the specific minor plat amendment requested; and
 - b. Identifying the specific subsection of TLGC Section 212.016, *Amending Plat*, that permits the plat to be amended without requiring a replat.
- B. **Administrative Official Responsibilities.** The Administrative Official may:
 - 1. Administratively approve minor plat amendments when the requirements of TLGC Section 212.016 are met; or
 - 2. Elect to present the plat to the Planning and Zoning Commission for approval, conditional approval, or denial.

Section 74-56 - Replats (Major Modifications)

- A. **Applicability.** All replats, excluding those that qualify for a minor plat amendment per Section 74-55, *Minor Plat Amendments*, are required to be revised in accordance with this section.

B. Legally Protested Supermajority.

1. *Vote Requirement.* If a proposed replat is protested [as described in subsection (2) below] the replat must receive, in order to be approved, the affirmative vote of at least three-fourths of all members of the ZPC.
2. *Legal Protest Standard.* For the legal protest approval standard to be applicable, a written petition signed by the owners of at least 20 percent of the area of the lots or land immediately adjoining the area covered by the proposed replat and extending 200 feet from that area, must be filed with the Administrative Official more than 24 hours prior to the opening of the public hearing.

C. Procedural Process. Replats may be submitted through the Final Plat process. See Section 74-56, *Final Plats*.

D. Required Notice. See Section 74-46, *Required Notice*.

Section 74-57 - Final Plat Vacation

See TLGC Section 212.013, *Vacating Plat*.

Article VI. Permits and Applications

Section 74-61 - Building Permit

- A. **Final Plat Required.** No building, repair, plumbing or electrical permit shall be issued by the City for any building or structure on a lot or tract unless a final plat has been approved pursuant to the provisions of this Chapter and filed for record with the City and the County Clerk.
- B. **Completion of Construction Improvements Required.** The Building Official may not authorize the issuance of permits for buildings in the subdivision until all improvements are completed in accordance with the requirements of Section 74-20, *Construction Improvements*.
- C. **Completion of Site Development Plan and Drainage Plan.** The Building Official may not authorize the issuance of permits for buildings until all required site development plans (See Section 18-54, *Surveys; Site Plans*) and drainage plans (See Section 18-56, *Site Drainage; Drainage Plans*) have been fully submitted and approved by the Building Official.
- D. **Building Official Responsibilities.** The Building Official shall be responsible for the issuance of all building permits. See Chapter 18, *Buildings and Development*.

Section 74-62 - Floodplain Development Permit

See Chapter 18, Article IX, *Flood Damage Prevention*.

Section 74-63 - Site Development Plan

See Section 18-54, *Surveys; Site Plans*

Section 74-64 - Site Drainage Plan

See Section 18-56, *Site Drainage; Drainage Plans*

Section 74-65 - Text Amendment

- A. **Initiation of Amendment Request.** Requests for amendments to the text of this Chapter may be initiated by the request of the ZPC, City Council, the Administrative Official, or the public at-large to amend, add, or repeal any portion of this Chapter that is not required by either Texas or Federal Law.
- B. **Amendment Request Process.** All text amendments to this Chapter shall first be reviewed by City Staff and then subsequently reviewed by ZPC with a recommendation provided to the City Council as to whether the amendment should be adopted.
- C. **Criteria for Approval.** The following shall be considered by the ZPC and the City Council in determining whether to adopt or recommend for adoption. The proposed amendment shall:
 - 1. Promote the health, safety, and general welfare of the City;
 - 2. Promote the safe, orderly, efficient, and healthful development of the City;
 - 3. Be consistent with other regulations within the City's Code of Ordinances; and
 - 4. Be consistent with the policies of the most recent Comprehensive Plan for the City.
- D. **Clerical Error Amendments.** The City Council may, by resolution and without requiring the provisions of subsections (B), (C), and (D):
 - 1. Correct spelling or punctuation errors;
 - 2. Cross-reference changes or errors; or
 - 3. Correct other matters determined by the City Attorney to be of a clerical nature and not requiring the notice requirements of Section 74-46, *Required Notice*.
- E. **Required Notice.** See Section 1-5, *Amendments or additions to Code*, of the City's Code of Ordinances and Texas Government Code (TGC) Chapter 551, *Open Meetings*.

Section 74-66 - Variances

- A. **Unnecessary Hardship Standard.** The ZPC may authorize a variance when an applicant can show that a provision of these regulations:
 - 1. Would cause unnecessary hardship if strictly adhered to; and
 - 2. Is because of a physical condition peculiar to the land.

B. Procedural Requirements.

1. Any variance authorized is required to be entered into writing into the minutes of ZPC meeting specifically stating the reason(s) for which the variance was approved.
2. Not less than two-thirds of the entire membership of the ZPC (not just those present at the meeting) must approve the request.

C. Required Notice. See TGC, Chapter 551, *Open Meetings*.

Section 74-67 - Appeals

A. Purpose. The purpose of the appeals process is to provide an opportunity for affected parties to seek review of a decision by either an Administrative Official or a public body in a timely and inexpensive manner.

B. City Staff Decisions. All decisions of the Administrative Official, Director of Public Works, Building Official, or any other properly designated City Staff representative pertaining to this Chapter, may be appealed to the ZPC.

C. Deadline to Appeal. All appeals must be fully completed and submitted to the City 30 days after an official decision.

D. Content. The request for appeal shall clearly state each alleged error or ground for protest which the appellant intends to assert. It cannot be amended, supplemented, or modified after notice of the meeting is posted.

E. Scope of Review. The ZPC shall review the application in the same manner, using the same approval criteria as the decision-maker. However the following shall apply:

1. No new evidence shall be presented to the ZPC that was not considered by the decision-maker; and
2. No issues shall be reviewed by the ZPC that were not described by the request for appeal.

F. Parties to Appeal.

1. Only parties shall have standing to bring an appeal. No appeal by a person who is not a party shall be heard.
2. A person is a party if it demonstrates:
 - a. That final action of the City caused it injury;
 - b. The injury is different in kind or degree from injury to members of the general public; and
 - c. The injury can be remedied if the appeal is granted.
3. Any person that owns property within 300 feet of any parcel line that is the subject of the appeal shall not be required to demonstrate injury.

G. **Required Notice.** See TGC, Chapter 551, *Open Meetings*.

Article VII. Enforcement and Remedies

Section 74-71 - Violations

A. **Timeframe for Noncompliance to be addressed.**

1. Upon delivery of a proper noncompliance letter the person receiving the letter shall have 10 business days to achieve compliance.
2. Failure to comply with a noncompliance letter within the 10 business day requirement shall constitute an offense.

B. **Other Lawful Actions Permitted.** Nothing herein contained shall prevent the City or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

C. **Complaints.** Whenever a violation of this ordinance occurs, or is allowed to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof. Said complaint shall be filed with the Administrative Official. The Administrative Official shall then immediately investigate and take any action that is appropriate per the regulations of this Chapter.

Section 74-72 - Penalties

See Section 1-7, *General Penalties for Violations; Alternative Enforcement*.

Section 74-73 - Non-Judicial Remedies

The City may on its own accord enforce any violation of this Chapter by using the following means and methods:

- A. **Withholding Permits.** The City may deny or withhold permits, approvals, or other forms of authorization for failure to comply with the requirements of this Chapter or those requirements of a referral agency.
- B. **Temporary Revocation of Permits.** The City may temporarily revoke permits to address an imminent danger to public health, public safety, public or private property or to prevent irreparable harm.
- C. **Suspension of Permits.** The City may suspend any permits to allow for the correction of a violation or in response to a judgment of a court of competent jurisdiction.
- D. **Revocation of Permits and Approvals.**
 1. *Generally.* Any permit or other approval required by this Chapter may be revoked when it is determined that:
 - a. There is a violation of any provision of this Chapter;

- b. The permit or approval was issued in error or based on false representation;
 - c. Upon the request of a referral agency with jurisdiction and due cause; or
 - d. There is a departure from approved plans or plats as required under the permit, this Chapter, or the construction requirements.
2. *Notice.* Written notice of revocation shall state a time frame to correct the violation.
 3. *Effect of Notice.* No work or construction may proceed after service of the revocation notice except work that is either:
 - a. Necessary to correct a violation; or
 - b. Involves public safety and has the potential to create irreparable harm.
 4. *Failure to Correct.* After the period to correct the violation lapses, and said violation has not been corrected or abated, the City may take action to correct such violation and may place a lien upon the property or improvements to the property in an amount to cover all costs related to correction or abatement of the violation.

E. Stopping Work.

1. *Administrative Official Authority.* The Administrative Official shall have the authority, with or without revoking permits, to stop any or all construction activity necessary to halt, correct, or prevent a violation of this Chapter by issuing a written stop work order.
2. *Issuance of Order.* Upon issuance of a stop work order, the permittee and/or operator shall immediately stop all activity until authorized, in writing, by the City to proceed.

F. Cease and Desist Orders. The City may issue a cease and desist order to close unlawful land uses or to halt a violation of this Chapter.

Section 74-74 - Judicial Remedies

The City may seek the following judicial remedies or any other judicial remedy as permitted by law to enforce this Chapter in any court of competent jurisdiction:

- A. **Injunctive Relief.** The City may seek an injunction to stop any violation granted under this Chapter. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Chapter is, or may be, an injury to the public health, safety or general welfare or that public health, safety or general welfare may be irreparably injured.
- B. **Abatement.** The City may seek a court order in the nature of mandamus, abatement, or other action to abate or remove a violation, or to otherwise restore the premises in question to the condition in which they existed prior to a violation.

Article VIII. Definitions and Interpretation

Section 74-81 - Rules of Construction

- A. **Headings.** Section and subsection headings are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or otherwise affect the scope, meaning, intent of any provision of this Chapter.
- B. **Conflict between Text and Tables.** In the case of any real or apparent conflict between the text of this Chapter and any illustration, figure, or table explaining the text, the text shall control.
- C. **Shall and May.**
 - 1. "Shall" is always mandatory.
 - 2. "May" is always discretionary.
- D. **Interpretation.** The provisions of this this Chapter shall:
 - 1. Be held to be minimum requirements;
 - 2. Be liberally construed in favor of the governing body; and
 - 3. Not be deemed a limitation or repeal of any other powers granted by state statute.
- E. **Word Tense.** Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.

Section 74-82 - Definitions

Accessory shall mean a building, structure, or use that is lawfully permitted and subordinate to a lawfully permitted principal building, structure, or use on the same building site.

Administrative Official shall mean the City Manager or his designee to administer the regulations and provisions of this Chapter of the Code of Ordinances.

Applicant shall mean any owner of real property or their agent, dividing or proposing to divide land so as to constitute a subdivision.

Block shall mean an area bounded by street areas and occupied by or intended for occupancy by buildings.

City shall mean the City of West University Place, Texas.

City Council shall mean the City Council of the City of West University Place, Texas.

Driveway^[U3] shall mean an outdoor area designated or improved to provide a path or route for motor vehicles.

Easement shall mean a granted right to a person to use land owned by another for a specific purpose.

Final plat shall mean the map or drawing on which an applicant's plan of subdivision is presented in final recordable form for approval by the ZPC.

Inactive application shall mean an application that has been submitted to the City, however the application does not fully comply with the standards of this Chapter meaning that City Staff is unable to place it on a ZPC agenda for potential adoption.

Local street shall mean all streets within the municipal limits of the City that are not identified by this Chapter as being a major thoroughfare.

Lot shall mean a contiguous area of land with boundaries established by a legal instrument such as a recorded deed, court order, or a recorded plat, which is recognized as a separate legal entity for purposes of transfer of title. The term "lot" does not include areas within rights-of-way and shall not be construed to allow the creation of lots that are not lawfully created in conformance with the provisions of this Chapter.

Major thoroughfare shall mean the following streets that are either within the City limits or directly border the City: Bissonnet St., Kirby Dr., Bellaire Blvd., and West Holcombe Blvd.

Minor Plat Amendment shall mean a type of replat that can be approved administratively because the necessary edits being requested are of the type identified by TLGC Section 212.016, *Amending Plat*.

Person shall mean a natural person, partnership, corporation, sole proprietorship, representative, governmental entity, unincorporated business association or any other entity.

Plat shall mean a map or chart of a subdivision including replats.

Preliminary plat shall mean the map or drawing on which an applicant's plan of subdivision is initially presented to the ZPC.

Replat shall mean a subdivision plat representing land that has previously been included in a recorded subdivision plat.

Right-of-Way shall mean area on, below, or above a street, sidewalk, alley, waterway, or utility easement in which a governmental body has a legal interest. The term does not include the wireless telecommunications.

Stale application means an inactive application for a subdivision that has been submitted to the City not meeting the requirements necessary for approval and the applicant has failed to address the City Staff and/or referral agency comments 90 days after the comments have been forwarded to the applicant.

Street shall mean a public right-of-way for vehicular traffic (including bicycles) whether designated a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, public roadway or however otherwise designated.

Subdivision shall mean the division of a lot or tract of land into two or more lots, sites or other divisions of the land for the purpose, whether immediate or future, of sale or building development.

Tract shall mean a portion of a subdivision intended for development, typically being substantially larger than a lot and intended for either large scale development, future subdivision into smaller lots, or preservation as open space.

Zoning and Planning Commission (ZPC) shall mean the ZPC for the City of West University Place, Texas.

Agenda Item #4

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August 8, 2019

Exhibit "A"

Amend Chapter 42, Article III. Condition of Private Property by replacing Sections 42-46 through 42-51 in their entirety and replacing with the proposal below:

ARTICLE III. – CONDITION OF PRIVATE PROPERTY

Sec. 42-46. - Purpose.

The regulations of this Article are necessary to ensure that private property is maintained at a level that will not create a public nuisance which may include but is not limited to brush, garbage, weeds, refuse, rubbish, or any unsanitary condition likely to attract rodents and/or disease.

Sec. 42-47. - Applicability.

All parcels of property within the municipal limits of the City shall adhere to the regulations of this Article which are consistent with Chapter 342, *Local Regulation of Sanitation*, and Chapter 343, *Abatement of Public Nuisances*, of the State of Texas Health and Safety Code.

Sec. 42-48. - Regulations.

- (a) **Public Nuisances to be Abated.** The following circumstances are deemed to be a public nuisance and shall be fully abated by the owner of the property:
- (1) The existence of an excessive accumulation of weeds that exceed 10 inches in height and remain on site more than seven consecutive days.
 - (2) Grasses, other than ornamental or decorative grasses, that exceed 10 inches in height and remain on site more than 7 consecutive days;
 - (3) Any garbage allowed to remain in one place for more than 24 hours and:
 - (i) Is not located fully within a receptacle and
 - (ii) Makes the premises unwholesome.
 - (4) Any brush or rubbish allowed to remain in one place the greater of more than 72 hours or the next scheduled trash pickup day.
 - (5) Any stagnant water or unfilled holes on the premise which can retain water and allow it to become stagnant or produce any unwholesome condition on the property for more than seven consecutive days;
 - (6) The accumulation or storage of any goods or inventory that can be viewed from the public right-of-way and used in connection with any commercial activity, including without limitation building materials;
 - (7) Any discarded personal property allowed to remain in one place longer than seven consecutive days;
 - (8) Any item that is spoiled, corroded, broken, or inoperable and allowed to remain in one place longer than seven consecutive days; or

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(9) Any spillage of oil or grease from a grease trap or grease or oil containment area and not abated within 72 hours.

(b) **Owner Responsibility.** The owner of the property at issue has a responsibility to fully abate the public nuisance through the owner's privately funded means.

Sec. 42-49. – Enforcement.

(a) **Right of Entry.** The Public Works Director or his designee is authorized to inspect any property within the municipal boundaries of the City at any reasonable time provided that the inspection is from the public right-of-way or the inspection is consistent with the requirements of Section 18-23, *Right of Entry*, of the City's Code of Ordinances.

(b) **Violations.**

(1) *Issuance of Citations.* [Should there be a request to abate requirement before a citation can be issued? As a practical matter, that is going to happen in the ordinary course. It's similar to the approach in the noise ordinance.]The Public Works Director or his designee is authorized to issue citations for violations of the terms and provisions of this Section to the owner or occupant of the property upon which condition exists.

(2) *Procedures and Penalties.* Any violation of this Section, and any associated penalties that result from it, shall be dealt with consistent with the requirements of Section 1-7, *General penalties for violations; alternative enforcement*, of the City's Code of Ordinances.

(c) **Municipal Abatement.** Whenever there are conditions in violation of this Article, the Public Works Director or his designee is authorized to abate those conditions by doing work or making improvements upon the property provided that the process of conducting the work is pursuant to Section 342.006, *Work Improvements by Municipality; Notice*, of the State of Texas Health and Safety Code.

(d) **Municipal Lien.** Pursuant to Section 342.007, *Assessment of Expenses; Lien*, of the State of Texas Health and Safety Code, the City has the right to obtain a lien on the property at issue to recover any costs associated with municipal abatement process as described above in subsection (b).

(e) **Separate Offenses.** Each single violation of any regulation of this Section 42-48, *Regulations*, shall be considered a separate and distinct offense.

(f) **Separate Remedies.** The remedies prescribed by this Section are separate, and the City may avail itself of one or more without precluding any of the others. Under no circumstances will a prosecution for a violation affect the right of the City to pursue abatement, liens, or both.

Sec. 42-50. - Definitions.

(a) **Abate** means to eliminate or remedy by removal, repair, or rehabilitation.

(b) **Brush** means all uncultivated shrubs, bushes, and small trees.

(c) **Discarded** means any item of personal property that is allowed to remain in one place outside and exposed to the elements, with no apparent use being made of it. The term "discarded" may include, but is not limited to, motor vehicles or parts of motor vehicles, trailers or parts of trailers, furniture, fixtures, carpets, or debris from any construction, remodeling, or demolition activity.

(d) **Garbage** means decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product.

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- (e) **Premises** means all privately owned property including vacant land.
- (f) **Receptacle** means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.
- (g) **Rubbish** means nondecayable waste from a public or private establishment or residence.
- (h) **Uncultivated** means in a primitive state that is not domesticated or cultivated and is produced by nature.
- (i) **Unwholesome** means all stagnant water, filth, carrion, impure matter and any condition liable to produce disease.
- (j) **Weed** The term “weed” may include, but is not limited to, uncultivated, invasive vegetative growth which is liable to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests and grasses that are harmful to humans by touch, such as poison ivy, poison oak, and poison sumac.

Agenda Item #5

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August 8, 2019

Amend Article II-Noise in its entirety by substituting the following provisions:

ARTICLE II. - NOISE

Sec. 54-39. - Unreasonable noise prohibited.

It is unlawful for any person to intentionally or knowingly make or create any noise of such volume, intensity, or duration as to disturb or annoy a reasonable person of normal sensitivity in the usual and expected enjoyment or the use of a dwelling. In determining whether a violation of this paragraph occurs, the following may be considered:

- (1) The level, frequency, or duration of the noise;
- (2) The proximity of the noise to the dwelling;
- (3) The nature and zoning of the area within which the noise occurs; and
- (4) The time of the day or night the noise occurs.

Sec. 54-40.- General noise level limit.

Except as provided in Section 54-41, it is unlawful for any person to make, assist in making, permit, continue, cause to be made or continued, or permit the continuance of any sound at any location beyond the property lines of the property on which the sound is being generated that when measured exceeds the applicable dB(A) level listed below for the property on which the sound is received.

The general maximum limits for any noise, except for noises specifically listed in Section 54-41 of this chapter, are as follows:

- (1) *Residential property:*
 - a. 58 dB(A) during residential quiet hours.
 - b. 65 dB(A) during all other times..
- (2) *Nonresidential property:* 68 dB(A) at all times.

Sec. 54-41. - Enumeration of specific noises.

(a.) The following noises, among others, are declared to be loud, disturbing noises in violation of this article (this enumeration is neither exhaustive nor exclusive of other noises):

- (1) The noise of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control; the same noise made while in motion, except as a danger signal after, or as, brakes are being applied and deceleration of the vehicle is intended; any unreasonably loud or harsh sound created by means of any such signal device; and the sound of such device made for any unreasonable period of time.
- (2) The sound of:
 - a. Any vehicular or portable radio, phonograph, disc player, tape player or any musical instrument that is plainly audible outdoors from a distance of 100 feet or more (or 50 feet or more during residential quiet hours); or

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- b. Any loudspeaker or amplifier operated outdoors during residential quiet hours that is plainly audible from a distance of 50 feet or more.

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. Example: If the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the enforcement officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the rhythmic base component of the music is sufficient to constitute a plainly audible sound.

- (3) The sound of any automobile, motorcycle or other vehicle so out of repair, so loaded or operated in such manner that it creates loud noises such as spinning or squealing tires, grating, grinding, rattling or other noise exceeding 85 decibels.
- (4) The sound of any mechanical equipment installed at a fixed location (Examples: fans, compressors, condensers, pumps, generators, etc.), if:
 - a. When the equipment is operating, noise from the equipment is discernable at a point outside the boundaries of the site where it is installed, and noise at that point is measured at a level of 70dB(A) or higher; and
 - b. Immediately before or after operation of the equipment, noise at the same point is measured at a level of 65dB(A) or lower.

All sound level measurements shall be made as provided in Section 54-43 of this article.

- (5) The sound of a discharge into the open air of the exhaust of any internal combustion motor or engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) The sound of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.
- (7) The sound produced by the erection, excavation, construction, or demolition of any building or structure, including the use of any necessary tools or equipment, conducted at any time other than during residential quiet hours, which activity produces a sound exceeding 85 dB(A) when measured from the property line of the residential property where the sound is being received. This decibel limit is not applicable when a current, valid permit has been obtained for the activities named and the sounds are being produced outside of residential quiet hours.
- (8) Any excessive noise made on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital at any time, which noise unreasonably interferes with the working of any such institution, provided conspicuous signs are displayed in such street indicating that the same is a school, hospital or court street.
- (9) Any loud and excessive noise resulting from the loading or unloading of any vehicle or container, or the opening or destruction of bales, boxes, crates or containers.
- (10) The sound of any bell, gong, whistle, siren, or other alarm or signaling device installed at a fixed location which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof. Exceptions: This does not apply to:

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- a. An emergency alarm operated by the fire department or other governmental agency; or
 - b. An alarm system permitted and operated in compliance with applicable regulations, including automatic shutoff rules; see, e.g. chapter 26.
 - c. Any gong, bell or chime used in a religious observance or prayer.
- (11) The sound of any drum, loudspeaker or other instrument or device used to attract attention to any performance, show or sale of merchandise.
- (12) The sound made by loudspeakers or amplifiers on trucks or other vehicles.
- (13) Any sound exceeding 85 dB(A) when measured from the property line of the nearest residential property where the sound is being received that is produced by operating or permitting the operation of any lawn or garden tool, leaf blower, lawnmower, or any other similar device used for the maintenance or upkeep of the property on which it is operated at any time other than during residential quiet hours.
- (b.) In the event of any conflict between this section and Section 54-40 the provisions of this section shall control.

Sec. 54-42. - Affirmative defenses.

- (a) *Request to cease.* It shall be an affirmative defense in any prosecution under this article that a request to cease causing the noise in question was given neither to the person charged nor to any officer, agent, employee or representative of the person charged. All peace officers and other city enforcement personnel are hereby authorized to request that persons cease causing noises that are apparently in violation of this article. Nothing herein limits the right of others to make such requests.
- (b) *Urgent public projects.* It shall be an affirmative defense, in any prosecution under this article that the offending noise was:
 - (1) Necessary for a public project for which the public works director has certified, in writing, that expedited completion is urgently needed and in the public interest; and
 - (2) Made after 7:00 a.m. and before 9:00 p.m.
- (c) *Measured noise levels.* It shall be an affirmative defense, in any prosecution under this article, that a measured noise level was actually produced by some person or thing other than that alleged to have caused the noise.
- (d) *Registered outdoor events.* It shall be an affirmative defense, in any prosecution under this article, that the offending noise resulted from an outdoor concert or similar event that:
 - (1) Was registered at least 48 hours in advance with the chief of police;
 - (2) Did not last more than four hours, of which no more than two hours were during residential quiet hours; and
 - (3) Was otherwise conducted to avoid disturbance of persons within nearby dwellings.
- (e) *Speech or expression.* The affirmative defenses for speech or expression enumerated in V.T.C.A., Penal Code § 42.04 (prior order to move, disperse or remedy) shall also be available in any prosecutions for violations of this article.

Sec. 54-43. - Injunction as additional remedy.

As an additional remedy, the noise made by any activity, device, instrument, vehicle or machinery in violation of any provision hereof and which causes discomfort or annoyance to

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reasonable persons of normal sensitivity, or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed, and is declared to be, a public nuisance and may be subject to abatement by a restraining order or injunction issued by a court of competent jurisdiction.

Sec. 54-44. - Sound level measurements.

Sound level measurements under this article shall be made in accordance with the following criteria:

- (1) Measurements must be made with a type 1 or type 2 calibrated sound level meters using the A-weighting scale and the slow meter response as specified by the American National Standards Institute (ANSI S1.4-1984/85A).
- (2) Noise levels shall be measured in decibels and A-weighted. The unit of measurement shall be designated a "dB(A)."
- (3) Meters shall be maintained in calibration and good working order.
- (4) Calibrations shall be employed which meet ANSI S1.40-1984 prior to and immediately after every sampling of sound.
- (5) Measurements recorded shall be taken so as to provide a proper representation of the sound being measured.
- (6) The microphone of the meter shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A windscreen for the microphone shall be used.

Agenda Item #6



Zoning & Planning Commission

Municipal Building 3800 University Blvd

Meeting Minutes

September 12, 2019

MEMBERS PRESENT: Richard Wilson, John Cutrer, Winfield Campbell, Sylvette Bobb, David Kuykendall and Brian Brantley

MEMBERS ABSENT: Bob Powell

STAFF PRESENT: City Attorney, Alan Petrov, Debbie Scarcella, City Planner, and Josie M. Hayes, Administrative Coordinator

- 1. Notices, Rules, Etc.** Richard Wilson; Presiding Officer, called the meeting to order at 7:00 p.m. and asked commission members and staff to introduce themselves. Richard Wilson asked staff to confirm that appropriate notices were given. Josie Hayes stated notices were posted per state and local laws.
- 2. Property Maintenance Regulations.** There was general discussion regarding the proposed changes to the Property Maintenance regulations. Staff was directed to prepare an updated draft of the regulations and bring back to the next meeting.
- 3. Noise Regulations.** There was general discussion regarding the proposed changes to the noise regulations. ZPC discussed the handouts from the CDC website regarding dangerous noise levels that contained charts listing common noise generating activities and the average decibel rating for the noise. There were several comments from the public in attendance and some discussion regarding minor changes to the proposal. Staff was directed to prepare an updated draft of the regulations and bring back to the next meeting.
- 4. Minutes.** The commission reviewed the minutes of the meetings held on August 8, 2019. Richard Wilson made a motion to approve the minutes as amended. Second by John Cutrer. **AYES:** Richard Wilson, John Cutrer, Winfield Campbell, Sylvette Bobb, David Kuykendall and Brian Brantley. **NOES:** None. **Motion carried.**

[Adjournment]

Sylvette Bobb made a motion to adjourn. Second by John Cutrer. **Motion carried.** Meeting adjourned at 8:04 p.m.

PASSED THIS _____ DAY OF _____, 2019.





The City of West University Place

A Neighborhood City

Presiding Officer

ATTEST: _____
Ms. Josie M. Hayes, Administrative Coordinator

