

Sec. 41-110 Final Plat Package

[...]

(q) Dedications. A signed and notarized certification of dedication of streets, roads, parks and other land intended for public use and dedication of municipal utility easements, rights-of-way and other land to the appropriate utilities. Signatures are not required on the plat until recordation. The certification statement shall read:

"STATE OF TEXAS        §

COUNTY OF HAYS        §

KNOW ALL MEN BY THESE PRESENTS:

THE OWNERS OF THE LAND SHOWN ON THIS PLAT WHOSE NAMES ARE SUBSCRIBED HERETO, AND IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, PARKS, WATER COURSES, DRAINS, MUNIPAL UTILITY EASEMENTS, AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED". I (WE) FURTHER CERTIFY THAT ALL OTHER PARTIES WHO HAVE A MORTGAGE OR LIEN INTEREST IN THE SUBDIVISION HAVE BEEN NOTIFIED AND SIGNED THIS PLAT.

I (WE) FURTHER ACKNOWLEDGE THAT THE DEDICATIONS AND/OR EXACTIONS MADE HEREIN ARE PROPORTIONAL TO THE IMPACT OF THE SUBDIVISION UPON THE PUBLIC SERVICES REQUIRED IN ORDER THAT THE DEVELOPMENT WILL COMPORT WITH THE PRESENT AND FUTURE GROWTH NEEDS OF THE CITY; I (WE), MY (OUR) SUCCESSORS AND ASSIGNS HEREBY WAIVE ANY CLAIM, DAMAGE, OR CAUSE OF ACTION THAT I (WE) MAY HAVE AS A RESULT OF THE DEDICATION OF EXACTIONS MADE HEREIN.

Owner

Signature of Party with Mortgage or Lien Interest

STATE OF TEXAS

COUNTY OF HAYS

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purpose and consideration therein stated.

Given upon my hand and seal of office this day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public in and for the State of Texas

My Commission Expires:

Sec. 41-141. – Municipal Utility easements.

- (a) *Rear and side lots.* Each block that does not contain an alley, shall contain or have access to a municipal utility easement at the rear of each lot, and/or at other appropriate locations on each lot, as determined by the city's engineer and/or public works director and/or their designees. The easement(s) will be reserved for the use of all public utility lines, conduits and equipment. Programming for utility locations in the easements will be reserved to the city, and placement of utilities in municipal utility easements require expressed, written prior authorization from the city. In the case of rear lot locations, the utility easements shall be no less than ten (10) feet in width. For properties with required building rear yards, the rear yard easement will be no less than ten (10) feet in width, or the width of any applicable setback, whichever is less. In side lot locations, the utility easements shall be no less than five (5) feet in width. For properties with required building side yards, any required side yard easement will be no less than five (5) feet in width, or the width of any applicable setback, whichever is less. Unless abutting an alley, water and wastewater utility easements in the rear are not favored and will not be approved except under special circumstances.
- (b) *Drainage.* Required drainage easements shall allow for a minimum of 15 feet in width in addition to any width required for a drainageway structure. This easement may be split between drainageway sides but one side (easement) may be no less than ten feet in width unless access and maintenance provisions are provided by other dedicated right-of-way. All public utility easements shall also be dedicated for use as drainage easements.
- (c) *Utilities.* The developer shall arrange with the appropriate utility department and/or company for the payment and/or refund of construction costs of each utility involved.
- (d) *Easements abutting streets.* A 15-foot wide municipal easement abutting the right-of-way of each street shall be dedicated as an easement for utilities, drainage and excavation and/or embankments. For properties with required building front yards, any required front yard easement will be no less than fifteen (15) feet in width, or the width of any applicable setback, whichever is less. Programming for utility locations in the easement will be reserved to the city, and placement of utilities in municipal utility easements require expressed, written prior authorization.
- (e) *Electrical, telephone and other lines.* All electrical, telephone, cable television and similar lines shall be placed underground in the municipal utility easement, and within the assignment directed by the city. Such lines shall be installed in accordance with the regulations and requirements established by each utility or service company, as applicable, and city ordinance. As authorized by V.T.C.A., Local Government Code ch. 212, the city council may waive this requirement for good cause, and permit such lines to be installed above ground.
- (f) *Private or gated communities.* Public utilities may be allowed within the confines of a private or gated community upon the approval of the city engineer and/or public works director and/or their designees, or his designee. This allowance applies only to a private or gated community of single-family homes. Multifamily projects that are private or gated shall have private utilities within the project and be served by a master meter on the public side periphery of any fence or gate, in which there is proper access granted for access as determined by the city engineer and/or public works director and/or their designees, or his designee.

If a private or gated community is allowed to have public utilities then all utilities inside of the private or gated community shall be placed within an easement of sufficient size, as accepted by the city engineer and/or public works director and/or their designees, or his designee, and which easement shall have in addition to standard requirements, added the following characteristics:

- (1) Shall be superior to any other easements or rights-of-way, whether private or public, such that future repairs to the utility shall not be impeded by failure of another entity to provide sufficient permission to proceed;

- (2) Permission to utilize existing private drives or roadways to facilitate a repair, including but not limited to:
  - a. Access;
  - b. The temporary storage or stockpile of material;
  - c. The ability to temporarily close access, entirely or in part, on a private drive or roadway;
  - d. Removal of vehicle(s) that may be impeding a repair.
- (3) Permission to cut or otherwise demolish portions of private drives or roadways needed to facilitate a repair, to include the waiver of any requirement to return the private drive or roadway affected to its original condition.
- (4) City, at its sole cost and expense, shall be obligated to restore the surface of the soil of the easement that has been removed, relocated, altered as a result of city's use of the easement. City will not be obligated to restore or relocate any other improvements, including, but not limited to, irrigation systems, walkways, driveways, access roads, parking areas, fences, landscaping items, and any movable structures such as benches, gazebos or other similar items, located in, upon, under or across the easement.

(g) Property Owner's Maintenance Obligations

- (1) The property owner(s) abutting a municipal utility easement is responsible for regular weeding, mowing of grass, irrigation, fertilizing, pruning, or other vegetative maintenance as needed for similarly used properties in the market in which the property is located. Any landscaping required by applicable city code, deed covenant, and/or subdivision plat must be maintained by the property owner in a healthy, growing condition at all times. Any plant that dies must be replaced by the property owner with another approved plant variety, generally of the same size, that complies with the approved landscape plan within 90 days after notification by the city.
  - (2) Any damage to utility lines resulting from the negligence of the property owner, his agents, or employees in the installation and maintenance of required landscaping in a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials, and return them to their prior locations after the utility work. If, nevertheless, some plant materials die, it is the obligation of the property owner to replace the plant materials.
  - (3) If owner does not perform the required maintenance, then city, after giving the owner thirty days' written notice, will have the right to perform the maintenance and receive reimbursement from owner. Reimbursement will be payable on demand and include the costs of the maintenance, plus interest at the highest rate permitted by law (or if no maximum rate is prescribed by law, at the rate of 18 percent per year).
- (h) Owner's Reservations and Encroachments. Owner for itself, its successors, and assigns will retain the right to continue to use and enjoy the surface of the municipal utility easement for all purposes that do not unreasonably interfere with or interrupt the use or enjoyment of the Easement. Provided however, that owner may not install, construct, operate, use, maintain, repair, modify, upgrade, and replace any building, building appurtenance (eaves, bay windows, utility boxes, air conditioning pads, etc.), gate, fence, retaining wall, or other similar improvements either above or below the surface without approval by the City Engineer. City may condition its approval by requiring the owner to make building design modifications and/or other improvements as may be reasonably required in the opinion of the City Engineer to ensure public safety and the city's use or enjoyment of the municipal utility easement.

